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Irregular Migration from India and Nepal: Nature, Dimensions and Policy Issues

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PART I

1 Introduction

For India international migration has been an old practice and established phenomenon. Over the years nature, direction and volume of migration from India have undergone significant changes. A number of studies have been carried out in determining direction quantum and impact of India's outward migration.¹ However, it has been a difficult task to determine the real numbers, accurate direction and specific implications as it revolves round many complex and problematic issues including the definitional problem, the understatement for political reasons, problem of undocumented migration and inadequacies of data collection on scientific basis.

It is estimated that there are 4-5 million overseas Indian workers who send remittances to the extent of \$ 12-15 billion annually. The United Arab Emirates, Saudi Arabia and Kuwait are the top destination countries and Kerala, Tamil Nadu and Andhra Pradesh are the top sourcing States.² There are 1.68 million Indians in US alone which is the single largest destination of Indian migrants.³ Today the overseas Indians are estimated at over 25 million spread across 110 countries.⁴ The International Monetary Fund (IMF) published a list of 20 developing countries with the volume of remittances and its percentage share of GDP. A majority of the South Asian countries figured in this wherein India with US \$ 11 billion ranked as number one in terms of the volume of remittances.

¹ Mahajan, V.S., "Labour Migration : Foreign Remittance and their impact on Regional Economy : A Case of Punjab in India", contributed paper, Seventh World Congress of the International Economic Association, Madrid, 5-9 September 1983. Deepak Nayyar, *Migration, Remittances and Capital Flows : the Indian Experiences*, Oxford University Press, New Delhi, 1994; Zachariah et. al., *Kerala's Gulf Connections : CDS Studies on International Labour Migration from Kerala State in India*, Centre for Development Studies, Thiruvananthapuram, Kerala, 2002; Lama, Mahendra P and VR Panchamukhi, *International Migration: Issues and Implications*, Research and Information System for the Non-Aligned and Other Developing Countries, New Delhi, 1989; Nair, PR Gopinathan, "Return of Overseas Contract Workers and their rehabilitation and Development in Kerala (India), in *Migration and Development*, International Organisation for Migration, Geneva, 1999

² Ministry of Overseas Indian Affairs, *Annual Report 2005-06*, Government of India, 2006, p 17

³ Ministry of External Affairs 2001, as quoted by ESCAP, *Dynamics of International Migration from India : Its Economic and Social Implications*, August 2003.

⁴ Ministry of Overseas Indian Affairs, *Annual Report 2005-06*, Government of India, 2006, p 4

This was almost 2.6 percent of its GDP.⁵ There has been a steady increase in the remittances from \$ 12.87 billion in 2000-2001 to \$ 18.89 billion in 2003-04. It is assessed that a major proportion of this is contributed by the increasing number of unskilled and semi-skilled Indian workers employed in the Gulf countries, Malaysia and Singapore.

Many are quitting their regular jobs for the greener pastures abroad.⁶ The official route in most of the cases is either through the close family links or work permit. The number of emigration clearances granted by the eight offices of the Protector of Emigrants in India increased from 2.79 lakhs in 2001 to 5.49 lakhs in 2005. So much so that the Government of India has now set up an exclusive Ministry of Overseas Indian Affairs in 2004 to “promote, nurture and sustain a mutually beneficial and symbiotic relationship between India and its diaspora”.⁷

There are perceptible apprehensions about the adverse impact of globalisation on international labour mobility particularly from the South to the North.⁸ However many factors including the declining cost of migration because of advanced information and transportation network, increasing population pressure, the fledgling gap between the technological status of the countries in the North and South, the steady decline in the working age population in the developed market economies, construction boom in the oil rich countries and gradual removal of racially biased immigration restrictions in receiving countries have all acted as catalysts to this migratory phenomenon. The mushrooming of agencies that facilitate such flows has also consolidated the process.

The very direction of migration has been determined not only by the difference in income level, but also the level of technology, geographical proximity, the political atmosphere and the social conditions. In all these the social networking has played a crucial role.

⁵ International Monetary Fund, *Balance of Payment Statistics*, Washington, 2000

⁶ Subramanian, Rachna. 2001. “Relocation Blues”, *The Sunday Times of India*, January 14 and Dutta-Sachdeva, Sujata and Bonita Baruah. 2001. “Westward Ho: Passport to a Better Life”, *The Sunday Times of India*, January 14.

⁷ The emigration division of the Ministry of Labour and Employment is now attached to MOIA. Ministry of Overseas Indian Affairs, *Annual Report 2005-06*, Government of India, 2006, p 5

⁸ Stalker, Peter, *Workers Without Frontiers: The Impact of Globalization on International Migration*, Lynne Rienner, Colorado and ILO, Geneva, 2000

2 *Irregular Flows : Definitions and Concepts*

In the context of the historical movements of people the concept of illegal/irregular/unauthorized/undocumented immigration is a relatively recent one. It became more known and practicable when nations started formulating rules governing the entry and residence of foreigners and also started enforcing them. As the contravention of those rules became more visible and accountable the concept of irregular immigration became much clearer and distinguishable from the regular migration.

It is important, however, to recognise that the term “illegal immigrant” covers people in a very wide range of different situations. Though illegality is hardly a result of choice, the popular perception of irregular immigrants is of people who set out with the intention of living in another country temporarily or permanently and working illegally there, often entering clandestinely or with forged documents. The 1998 Europol Convention⁹ stated that “illegal migrant smuggling” comprises “activities intended deliberately to facilitate, for financial gain, the entry into, residence and employment of an alien in the territory of the State, contrary to the rules and conditions applicable in such a State.”

Convention No 143 adopted by the 1975 ILO Conference defines clandestine or illegal migration movements as those where migrants find themselves “during their journey, on arrival or during their period of residence and employment [in] conditions contravening relevant international multilateral or bilateral instruments or agreements, or national laws or regulations”.¹⁰ This shows that irregularity could figure right from entry, residence, and occupation to finally departing from the host country.

Another category of irregular immigrants which is commonly witnessed are those who enter legitimately and then overstay the period for which they have permission to enter or remain.

⁹ <http://www.europa.eu.int/scadplus/leg/en/lvb/l14005b.htm> - 27k

¹⁰ Tapinos, Georges, “Irregular Migration : Economic and Political Issues”, in *Combating the Illegal Employment of Foreign Workers*, OECD, Paris, 2000, p 14

The third category belongs to the forced migrants' category that leaves their countries under very difficult situations and migrates legally and illegally to immediate neighbouring countries primarily for safety, food and shelter. Tapinos has identified six categories of clandestinity :¹¹

- i) Migrants who have entered the country legally with a legal residence permit, but who are working illegally either because the job is not declared or because their residence permit does not allow them to work.
- ii) Migrants who have entered the country legally, who are living in the country illegally (either because their work permits are invalid or have expired, or because they donot have residence permits), and who are working illegally. It is assumed that a migrant without a residence permit cannot work legally under the legislation in force.
- iii) The same category as above, but covering inactive migrants
- iv) Migrants who have entered the country, clandestinely, who have no residence permit and who are working illegally
- v) The same as category above, but covering inactive migrants
- vi) Migrants who have entered the country clandestinely, who have a residence permit (e.g. following regularization, or by variation in their status through marriage) and are working illegally.

As a subset of irregular migration we also find a clear agent-client relationship between the migrant smuggler/ the smuggling syndicate and the migrant where the later is not actually a victim but a conscientious client or a willing migrant. The smugglers/intermediaries work as the facilitator here primarily for profit or other material benefits. The United Nations (UN) protocol¹² on smuggling of migrants in relation to the

¹¹ Ibid. pp 16-17

¹² United Nations General Assembly (2001) http://www.unodc.org/pdf/crime/a_res_55/res5525e.pdf.
“Fraudulent travel or identity document” means any travel or identity document, that has been falsely made or altered in some material way by anyone other than a person or agency lawfully authorized to make or issue the travel or identity document on behalf of a State, or that has been improperly issued or obtained

UN Convention against Transnational Organized Crime (2000)¹³ defines smuggling of migrants as the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or permanent resident. "Illegal entry" is defined in the protocol as crossing borders without complying with the necessary requirements for legal entry into the receiving State. Under the same Convention, Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children defines trafficking as "...the recruitment, transportation, transfer, harboring or receipt of persons, by threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation."

Trafficking has been a lucrative business and has for quite sometimes been taking place in a large scale. This has come under the control of international networks of organized crime as an industry which is estimated to generate between \$ 5 and \$ 7 billion annually.¹⁴ The trafficking in humans to a large extent could make a migrant a victim. This happens as the trafficker maintains a continued exercise of control over migrants by force or fraud even after the transit of borders. In this case also the relationship actually could start in the form of migrant smuggling. In other words, smuggling is generally limited to illegal facilitation of border crossing when the migrants place themselves in the hands of smugglers, albeit voluntarily. The smuggling itself can degenerate into trafficking that involves elements of exploitation and human rights abuse.¹⁵

through misrepresentation, corruption or duress or in any other unlawful manner, or that is being used by a person other than the rightful holder.

¹³ *The United Nations Convention against Transnational Organized Crime and its Protocols*, United Nations office on Drugs and Crime, (4 May 2005). www.unodc.org/unodc/en/crime_cicp_convention.html

¹⁴ Gunatilleke, G, *Summary report of the Rapporteur*, International cooperation in fighting illegal immigration networks, IOM Seminar on International response to Trafficking in Migrants and Safeguarding of Migrant Rights, Geneva, 26-28 October, 1994.

¹⁵ IOM & UN, *Perspectives on Trafficking of Migrants*, Geneva, 2000 and IOM, *Migrant Trafficking and Human Smuggling in Europe*, Geneva, 2000.

This implies that there are several ways that lead to an irregular status. They range from illegal border crossing to exceeding the permitted length of stay and from taking up unauthorized employment while on tourist or student status, to the refusal to follow an expulsion order following a negative asylum decision. In other words, this is the circumvention of a country's legal entry procedures for the purpose of migration and involves all forms of migration-related border violations. Irregular migration is coined to stress the fact that it by itself does not always constitute a criminal offense.¹⁶

Illegal immigration and employment have long been fairly widespread as indicated by the fact that in 1973 illegal immigrants constituted 10 % of the foreign population of Europe. In 1954, the US repatriated over 1 million Mexican nationals under Operation Wetback.¹⁷ The irregular flows largely illegal in nature have gained momentum both in the face of strict restrictive measures applied by the host countries confining the migration to a demand determined level. On the other hand, the increasingly restrictive admission policies by the traditional immigrations countries are attributed to the demand for control of territories and assertion of sovereignty and the resentments of the natives against the invasion on their economic and social welfare. At the same time fewer countries have emigration controls.¹⁸ *The Times* recently reported on how Asian and African migrants are being smuggled into the United States through Central America.¹⁹

What are the causes? Or what are the “pull” and “push” factors for migration? Why is it that an industry has emerged which involves helping migrants, for a fee, to secure visas, transportation and employment? Why has migration spurred the growth of illegal trafficking with the illegal flow of workers and a large market for forged documents ? The International Labour organization (ILO) published volume states that the flow of goods and capital between rich and poor countries is not large enough to offset the need

¹⁶ Schatzer, Peter (2005), *Illegal Migration Needs Firm but Compassionate Solution*, as published in <http://www.population2005.org/Illegalmigration.doc>

¹⁷ Castles, Stephen & Mark J. Miller, *The Age of Migration*, Palgrave, New York, 1998, p 96

¹⁸ United Nations, *International Migration Policies*, Department of Economic and Social Affairs, Population Division (ST/ESA/SER. A/161), New York, 1998, pp 207-209

¹⁹ Skerry, Peter and Stephen J. Rockwell (1998) *The Cost of a Tighter Border: People-Smuggling Networks*, Governmental Studies as also on website : <http://www.brookings.org/views/op-ed/skerry/19980503.htm>

for employment in poorer countries. Instead, social disruption caused by economic restructuring is encouraging people to look for work abroad. The total number of migrants around the world is now 120 million, up from 75 million in 1965 and is still growing. In a world of winners and losers, the losers do not simply disappear; they seek somewhere else to go. The ability to find good jobs and earn much higher pay is the prime reason for people to migrate. According to the ILO publication, the potential for migration is the difference in wage rates for occupations that are open to migrants.²⁰ For instance, in the U.S., the sector in which the share of immigrants is highest is agriculture; in Belgium and the Netherlands, it is the extraction and processing of minerals; in Denmark, Germany, Australia and Canada, it is manufacturing; in France and Luxembourg, it is construction and civil engineering and in the U.K. it is services. On this side of the globe, many countries are both sources and destinations for migrant workers.²¹

These migrants' central question while working abroad had been their integration and acculturation in the cultural, social and economic milieu of hostile host countries. The generally poor working conditions, deprivation from both civil and political rights, discrimination in wage levels on the ground of nationality, education, wealth, occupational skills, language or familial relation are some intricate issues that are raised quite often in the discourse on migration. The marginalization of migrants from the mainstream socio-cultural and politico-economic activities in the host countries have brought into fore issues of security both of migrants and the host countries.

The belief that the irregular emigrants would acquire much needed industrial skills that would lead to the level off income in the society²² is largely unfounded. Except in few cases, most of them have suffered from "skimming effect" of emigration as the returnees have experienced tremendous physical and mental pressures without involving any

²⁰ ILO, *Workers Without Frontiers - The Impact of Globalization on International Migration*, <http://www.ilo.org/public/english/bureau/inf/magazine/34/migrants.htm>

²¹ Stalker, Peter, *Workers Without Frontiers: The Impact of Globalization on International Migration*, Lynne Rienner Publishers, 1999

²² Djajic, S, "Illegal immigration and resource allocation", *International Economic Review*, Vol 38, No 1, February 1997, pp 97-117

occupational upgradation. For instance, the situations to work under ‘unacceptably exploitative conditions’ in garment industry in Paris have triggered demonstrations by undocumented immigrants throughout France in the past three years. These “are in a very real sense, a challenge to the hegemony of the legal boundaries that exclude them. By resorting to dramatic action, such as church occupations and extended hunger strikes, protesting immigrants are demanding legal status in France. They have invoked the right to family life and work stability, free from discrimination”.²³

The time dimension attached to irregular migrants is another aspect that is increasingly highlighted. This is because the temporary phase of irregularity could often be converted into a permanent and regular phase through the process of regularization. In many cases this has happened as ‘one time amnesty’.

To combat clandestine immigration the host countries have used an array of measures. The frontier controls to restrict inflows have been widely utilized. The imposition of penalties and other punitive measures against the employers as the second form of control has been in use for many years now. However “there is a price that entrepreneurs are prepared to pay to be able to hire unauthorized workers; the problem may be formulated within the theory of optimal taxation. Entrepreneurs will risk employing unauthorized foreigners for as long as the expected cost of being penalized (a function of the expected size of the penalty and the likelihood of being caught) is lower than the difference between the labour cost of illegal and legal migrants.”²⁴ Some of these countries like USA, Spain, Greece and Italy, have even effectively used regularization as a means of controlling such illegal presence of workers. This has helped these irregular workers “acquire a status more conducive to the enjoyment of human rights, better economic and social integration, wither in their host countries or when returning to their countries of origin”.²⁵

²³ Iskander, Natasha, “Immigrant Workers in an Irregular Situation : The Case of the Garment Industry in Paris and its Suburbs”, in *Combating the Illegal Employment of Foreign Workers*, OECD, Paris, 2000, p 51

²⁴ Hill, JK and Pearce , JE, “The incidence of sanctions against employers of illegal aliens” *Journal of Political Economy*, Vol 98, no 1, 1990, pp 28-44 as mentioned in Tapinos, p 35

²⁵ Organisation for Economic Cooperation and Development, “Some Lessons from Recent Regularisation Programmes”, in *Combating the Illegal Employment of Foreign Workers*, OECD, Paris, 2000, p 66

However the host countries have now shown new concerns particularly related to the security. This has acquired serious dimensions. The irregular migrants who cannot be easily distinguished from the general international labour migration are in the centre of this security concerns. As the number of irregular migrants assumes massive proportion in a specific situation, the receiving countries start suspecting and putting even the regular economic migrants into the same security basket. Even in the ongoing negotiations on Temporary Movement of Natural Persons (TMNP-Mode 4) under the GAT/WTO, irregular immigrants have figured widely among the inhibitive responses of most of developed countries.²⁶

Over the past decade the immigration controls in most of the high income countries have become tougher and the legal opportunities for migrants to live and work in these countries have diminished. At the same time in these countries there remains a persistent demand for various categories of foreign labour in both formal and informal sectors. As a result of this imbalance in requirement-availability axis, a market for services that facilitate irregular migration such as provision of fraudulent travel documents, fake identification papers, transportation, clandestine border crossings, transient accommodation and job brokering has sharply increased in recent years. Criminal networks have found good ground in these areas to enlarge their activities and profits. Individuals and organizations both in the country of origin and in countries of destination and transit take advantage of the current situation and offer their “services” to persons wishing to leave. This complex chain of clandestinity is what has baffled the policy makers and managers of irregular migrants. This phenomenon is widespread among the Indian migrants also, but has not been systematically studied so far.

The payment to the migrant smugglers often puts migrants in debt and results in a sale of their assets. They are often in a vulnerable position during the journey and face

²⁶ OECD, *Globalisation, Migration and Development*, Paris, 2000 as quoted in OECD, *Trends in International Migration*, Annual report, 2001 Edition, Paris, 2001, p 59

deportation in the destination country. The smuggling of migrants impacts on issues of rule of law, prevention of crime, corruption, financial transactions and migration²⁷.

A major lacuna in the history of irregular international migration has been the lack of information system and related statistics. There is no worthwhile record of dimension of irregular migratory flows, their returns and impact on both host and sending countries. Except some scattered literature published by organizations like Organisation for Economic Cooperation and Development (OECD) and International Organisation for Migration (IOM), not many analytical studies are available on their mode of recruitment, modalities of transfers to various destination and impact of working conditions on their personal beings. This is crucial as the irregular migration will continue to be a major plank of out-migration for a country like India. A more scientific approach to assess the actual impact of migration is to use cost-benefit analysis formula. But it is constrained by several factors which are largely non-quantitative in nature.

There exists very scanty economic analysis based on econometric studies of the mass movement of irregular and temporary migrants. The Herculean task of estimating the number of people in an irregular situation in fact makes even the preliminary analysis both intriguing and inaccurate. As a result, the issues governing movement of factors are seldom put in internationally applicable theoretical framework. This has made the analytical understanding difficult and left this potent area of international economy largely unexplained.

Starting with the 'push-pull' formulation of migration by Ravenstein wherein people migrated from low to high opportunity areas there has been several attempts to capture migration both conceptually and empirically. Later Lewis further built it up to establish a two sector model where agriculture surplus labor with lower marginal productivity moved to the labour-scarce modern (urban) sector.²⁸ The conceptual basis of migration

²⁷ Report on "*Irregular Migration and Smuggling of Migrants from Armenia*" published International Organization for Migration and this publication was financed by the Ministry of Foreign Affairs of the Netherlands.

²⁸ Ravenstein, EG, "The Laws of Migration", *Journal of the Royal Statistical Society*, No 52, London, 1889; Lewis, Arthur, W "Economic Development with Unlimited Supplies of Labour", *The Manchester*

could be broadly summed up in terms of three models, viz. i) the gravity distance model, ii) the probability or transition matrix model on the lines of the Markov chain or the sociologically explained chain migration and iii) the push-pull or cost benefit models based on international differences in economic variables. Among these, the last model of labour migration can be applied to a large extent to the categories of irregular movements. In the dynamic form, this model also permits to regress the migration flows simultaneously on several independent variables. Unlike the limited use within a place-to-place migration framework of the gravity or distance model, the push-pull model can be used for empirical studies on different degrees of aggregation.²⁹

Stark advocated a risk reducing strategy among the households as the core component of migratory movement.³⁰ One can also partially use the human capital approach to examine the irregular migration. An example of this is the case of Todaro model where labour migration is primarily based on individual rational economic expectations³¹. Here the decision of a migrant is based on his assessment of various labour market opportunities available to him and finally selecting the one which maximizes the discounted present value of the expected net gain of his labour. This model even includes the probability of remaining unemployed in the migrated country. In this case, “ the migrant measures all the future expected net gains by the difference in the real income, multiplied by the probability of a new migrant obtaining a higher paid job abroad and discounted with a rate reflecting his degree of time preference over this time horizon”.

There are however, methods exclusively used for estimating the number of undocumented migrants.³² These are used in making such estimates in the United States. Under the census-based indirect estimates the number is determined by comparing the

School of Economic and Social Studies, vol 22, May 1954 as quoted in Russell, Sharon Stanton & Michael S Teitelbaum, *International Migration and International Trade*, World Bank Discussion Papers, no 160, The World Bank, Washington, 1992, p 4

²⁹ Also see Brettell, Caroline B and James F Hollifield, *Migration Theory: Talking Across Disciplines*, Routledge, London, 2000 and Meilaender, Peter C, *Towards a Theory of Immigration*, Palgrave, New York, 2001

³⁰ Stark, Oded, *The Migration of Labour*, Basil Blackwell, Oxford, England, 1991.

³¹ Straubhaar, Thomas, "The Causes of International Labour Migrations - A Demand-Determined Approach", *International Migration Review*, Vol.XX, No.4, 1986.

³² United Nations, *International Migration Policies*, Department of Economic and Social Affairs, Population Division (ST/ESA/SER. A/161), New York, 1998

foreign-born population counted in the 1980 United States census data adjusted for naturalization and omissions and the number of aliens legally residing in the United States at the census data according to the Immigration and Naturalization Service (INS) data. The following identity was used to compute the final estimates:³³

$$\begin{array}{ccccccc} \text{Undocumented} & & \text{Foreign-born} & & \text{Naturalized} & & \text{Legally} \\ \text{Aliens} & & \text{Population} & & \text{United States} & & \text{Resident Aliens} \\ \text{Counted in the} & = & \text{counted in the} & + & \text{Citizens in the} & - & \text{in the United} \\ \text{Census} & & \text{Census} & & \text{United States} & & \text{States} \end{array}$$

Another method based on border apprehensions data in US-Mexico border postulates that undocumented migrants will keep trying to re-enter the United States after they have been apprehended until they succeed. Under this assumption, the size of the illegal immigration flow (F) is equal to the product of the odds of being arrested by the number of border apprehensions (A). Estimates of the apprehension probabilities (p) were derived from statistics on total apprehensions and repeaters.³⁴

$$F = A [(1-p)/p]$$

The third method based on survey was also used to estimate undocumented migrants of Mexican origin using direct observation at major crossing points. Both non-systematic and random samples were used for conducting interviews.³⁵

3 *Irregular Migrants : The Indian Context*

Like in other South Asian countries, in India also the lure of foreign jobs is so strong that many of the aspiring emigrants who do not have close family ties or work permit adopt illegal means to go abroad. It is difficult to get data on the real number of illegal

³³ Warren, R and JS Passel, "A count of the uncountable : estimates of undocumented aliens counted in the 1980 United States census", *Demography*, Vol 24, no 3, pp 375-393 August 1987

³⁴ Espenshade, Thomas J, "Using INS border apprehension data to measure the flow of undocumented migrants crossing the US-Mexico frontier, *International Migration Review*, Vol 29, No 2, pp 545-565, 1995

³⁵ Cornelius, Wayne A, "Interviewing undocumented immigrants: methodological reflections based on fieldwork in Mexico and the United States" *International Migration Review*, Vol 16, No 2, pp 378-404, 1982. Heer, David M and Jeffrey S Passel, "The comparison of two methods of estimating the number of undocumented Mexican adults in Los Angeles County", *International Migration Review*, Vol 21, No 4, pp 1446-1473, 1987

migration. Though smuggling human beings is a multi-million rupee business in a state like in Punjab, there is a tremendous gap in information on this specific yet serious problem. The complexity is explained by several incidents that are reported in the press. Pakistan arrested 29 Indian nationals on the Iranian border as they were reportedly attempting to cross into Europe via the land route. The Indians were caught by Iranian authorities on their side of the border with Pakistan and sent back into Pakistan. Another 40 Indians have been languishing in jails in Balochistan for several months now who were caught on the Iranian border. They are victims of human smuggling and greedy agents in Punjab.³⁶ Indian and Pakistanis are increasingly using Mauritania for entering Europe. They were detected as a large number of them were stranded in the wasteland of Sahara.³⁷

The reported involvement of a secretary level foreign service official Rakesh Kumar, Director General of the Indian Council of Cultural Relations (an eminent institution for promotion of Indian culture abroad) in a related to human trafficking to European countries shows how deeply the entire racket has penetrated. Kumar is alleged to have taken money to approve cultural parties to visit Europe wherein some of the participants used to routinely vanish.³⁸

North India's premier newspaper³⁹ reported in an article :

³⁶ *The Hindu*, New Delhi, Online edition of India's National Newspaper, Monday, Jan 24, 2005 as reported by B. Muralidhar Reddy in Islamabad.

³⁷ "South Asian Migrants stranded in the wasteland of Sahara", *The Hindu*, New Delhi, May 1, 2006

³⁸ There are several news stories widely reported including by Singh, Prabhjot, "Illegal Migrants", *Tribune, Delhi*, 18 June 2001 ; "Inhuman Cargo", *Spectrum, The Tribune*, 8 August 2004 ; Jimenez, Marina, "How People Smugglers are Beating the System", 20 April 2005; "Bollywood Stars in Migrant Scam", *The Asian Pacific Post*, 23 October 2003; Ramachandran, TR, "Indian Offers to Help Illegal Sikh Emigrants", *The Tribune*, , New Delhi, 15 January, 2003 ; Agnihotri, Anju, "Malta Boat Tragedy Probe Mission", *Indian Express*, Delhi, 27 February 2005 ; Tiwari, Manish, "Exodus to Foreign Shores Alarming", *Hindustan Times*, 24 September 2003 ; Hawley, Chris, "Mexico Publishes Guide to Assist illegal Migrants", *Insomniac* , 2 January 2005; Patnaik, Ila, "Get Young Indians to Pay for Old Europeans", *Indian Express*, 11 April 2005; Goodspeed, Peter, "Illegal Migrants Rush To Escape Tough New Laws", *National Post*, 02 August 2002

³⁹ *The Tribune* , 10th September, 2002, Chandigarh

“Want to mint money, say \$ 200 to \$ 300 million per annum, without doing almost nothing? If yes, be an agent or sub-agent of a well-oiled conglomerate, run by dozens of unscrupulous but powerful travel agents’ based in Delhi or a foreign country, base yourself in a village or township in the Doaba region and successfully entice thousands of young foreign aspirants, each of whom is ready to pay anything from \$ 20,000 to \$ 30,000 for ‘permanent’ settlement abroad”.

This is no mere hearsay. Official figures show that nearly 15,000 youth from Doaba (a village of Punjab) and other parts of Punjab go to the U.S.A., Canada and other Western countries annually.⁴⁰ Most of them go with the help of people based in different villages, who act as sub-agents or conduits of certain Delhi or foreign based “travel agents”, running the flourishing “human cargo” business. The most popular method among young aspirants for settling in a country of their choice is to just intentionally misplace his or her original travel documents and then apply for fresh travel documents through embassies of different countries. The widespread use by unscrupulous agents, is evident from heaps of national status verification queries - forwarded by embassies of different countries to the local Regional Passport Office and the police authorities. And the number of those people who had “lost” their travel documents during their foreign trip has been on the rise during all these years.

The Regional Passport Office authorities mentioned to us that they received about 5500 verification queries during the past year (2003), which were routed by them to the police authorities for the purpose. On the other hand, the office received about 625 such queries in 1999, followed by 582 and 632 during 2000 and 2001 respectively. “Though not all are wrong. But most who apply for a fresh passport intentionally misplace their travel documents so as to feign that they had not gone to that country through some illegal channel or were on a short visit as they had been accorded a visitor visa,” said an official adding that most such people act on advice given to them by their travel agents.

⁴⁰ “Inhuman Cargo”, (Spectrum section), *The Tribune*, 8 August 2004

According to an official estimate, this way, people who work as sub-agents of those indulging in the human cargo racket, mop up about \$ 200 million per year since they charge an amount of \$ 20,000 to \$ 30,000 per person and since the number of people actually landing in certain Western countries are estimated to be twice those who apply for fresh travel documents.⁴¹ “Actually if, on an estimate, 5,000 people apply for a fresh passport from abroad, the same number of people are those who either don’t apply for a fresh passport or those who, had paid the money to travel agents in India, but had failed to get through”, said a senior official associated with the verification process. Police officials, admitted that the most favoured destinations were the USA and Canada and those indulging in the racket used varied routes, including Nepal and Mexico, for sending people to these two countries.

The number of people who were not accredited travel agents but operated from various villages and townships of the Doaba region as sub-agents, according to the travel and trade industry sources, was between 125 and 150, but the police put the number at 500. *“They don’t have shops or offices and are generally those who have been to a foreign country once or twice or had adopted this profession after being deported. Their services are generally taken by people settled abroad, who want to get their relatives abroad at any cost”*. Gurdip Singh, with a notorious background, was recently caught on September 19, 2002⁴², he confessed to having arranged green cards for over 200 immigrants under an amnesty offer by the U.S. government in 1982. Says Gurdip, “I command a lot of respect in the Doaba belt for sending their people abroad.” Gurdip used to arrange fake documents for irregular immigrants and charge money for it. After being caught by the Federal Bureau of Investigation (FBI) on December 23, 1989, for arranging green cards for the immigrants, he was released on January 31, 1990, after he turned state approver in the case. He was deported from Korea, Malaysia and Poland for sending irregular migrants through these countries⁴³.

⁴¹ Mehta, Deepa, *The Effective Administration of Criminal Justice to Tackle Trafficking in Human Beings and Smuggling of Migrants in India*, 2002.

⁴² *Tribune*, Chandigarh, September 20, 2002

⁴³ “Illegal Migrants”, Prabhjot Singh, *The Tribune*, 18 June 2001.

There have recently been far more reports of smuggling migrants from India, reflecting an emerging migrant smuggling infrastructure that involves Indian agents recruiting migrants, transporting them to Europe or North America, collecting fees from them and perhaps providing them with jobs in the destination areas. The migrant smugglers located in the Paharganj area in Delhi generally charge \$ 7,500 to \$ 9,000 to send an individual to Europe.⁴⁴

Unlike the migration for employment prevailing upto the 1960s which was mostly based on limited personal linkages and kinship, the recent massive migratory phase witnessed a new structural feature involving organization of migration mostly by the private agents. Some of them function in the guise of ‘passage brokers’ or unlicensed recruiting agents. This has been given a further boost by ‘technical possibilities’⁴⁵ wherein the rapid development in communication technology and transportation system make the process of migratory movement much easier and attractive. Their prominence arose as they could provide a whole range of migratory facilities starting from advertising job openings to prospective workers to securing visas, arranging travels and reaching them to the final employers. Their ‘package deal’ to make the migratory process easier however, very often ignores the security and safety aspects of the migrants. Within India also the actual origin of irregular labour migrants is generally believed to be from some established pockets only.

The very *modus operandi* of the irregular migrants from India is fast undergoing changes. Firstly, it used to be manipulation of tourist and business visas. The provision of Emigration Check Required (ECR) has often been flouted even after the “suspension” stamp is obtained. This is done by not returning to home country after the expiry of permitted visa period and simultaneously managing to secure a job through relatives and various agencies. Secondly, recruiting agencies take them from home country on limited

⁴⁴ Deepa Mehta (2002), *The Effective Administration of Criminal Justice to Tackle Trafficking in Human Beings and Smuggling of Migrants in India*. She is an Inspector General of Police, Chief Vigilance Officer, Delhi Metro Rail Corporation, India as reported in [www.unafei.or.jp/english/pdf/PDF_rms/no62/India\(1\).pdf](http://www.unafei.or.jp/english/pdf/PDF_rms/no62/India(1).pdf).

⁴⁵ Widgren, Jonas, “Multilateral cooperation to combat trafficking in migrants and the role of international organisations”, paper presented in the IOM Seminar on International response to Trafficking in Migrants and Safeguarding of Migrant Rights, Geneva, 26-28 October, 1994.

employment basis for a particular period of time and these migrants play vanishing tricks immediately after their contract period is over. This is done for illegal stay and possible movement to other countries. Thirdly, it has been the various authorised professional groups including music bands and sports delegations that visit countries abroad who leave behind the members of the accompanying party in the name of “lost” and “defected” individuals. And finally, the prospective migrants are taken to the neighbouring countries where visas and passports are not major restrictions and from there they are shipped to their destinations in groups.

A two pronged strategy has now been in vogue to minimize the aspects of irregularity in migration and exploitation of migrants by these agencies. In the first place, there have been attempts to set up public recruiting agencies which select, regulate and monitor a majority of migrants. In the second place, government has clamped down strict regulatory measures by means of direct intervention through mandatory guarantee deposits for migrant worker’s safety and other conditions. Section 22 of the Emigration Act 1983 provides that no citizen of India shall emigrate unless he/she obtains emigration clearance from the Protector General of Emigrants. The permission to emigrate is granted (since 1983) only after the employment contract of the worker is registered with the Protector of Emigrants in the Ministry of Labour. Despite all these, leakages do occur in the form of irregular migrants, illegal stay back by persons having visitor visas, etc.

PART II

4 *Case Studies : Two Different Situations*

Besides the literature survey, this study has obtained data from sample surveys conducted in India and Japan. This study conducted the two varieties of survey viz., a survey based on the irregular migrants from India who have already returned to their place of origin i.e. in Punjab and irregular migrants from South Asian countries mainly Nepal who are

actively working in Japan. In other words, it involves a study on both an event that has taken place and also commentary on a live event.

This study has also been written in two different perspectives of sending countries (India and Nepal) and the receiving country (Japan). In the process, this study attempts to incorporate in it the perceptive and realistic assessments of principles, modes and implications of irregular migration on both sides.

There have been genuine difficulties both in identifying irregular migrants and convincing them about the purpose of this study. Unless they were fully convinced they would not have participated in the sample survey out of fear of recrimination and other social and legal apprehensions.

At the same time, this study would have been meaningless if it was not based on real time experience and participants. Interestingly in both cases of returnees and the serving / working irregular migrants we could locate and administer the survey schedules in a more or less compact geographical area both in Punjab and Japan. This was a great advantage in conducting the study. However, in view of the apprehensions expressed by the migrants themselves (which was one of the most serious conditions the migrants asked us to abide by before they really spoke to us) we are not in a position to reveal the exact locations both in India and Japan.

This study incorporates in it as many field survey based observations and analysis as was targeted. In case of Japan, adequate number of Indians or other South Asians was not either found or forthcoming.⁴⁶ Therefore, the samples taken were mainly the irregular migrants from Nepal who are located in various parts of Japan and are still working there.

⁴⁶ For instance on a casual enquiry in the Akhihabara electric market (frequented by a large number of South Asian migrants) and Ashakusha area of Tokyo many of the legally migrated Bangladeshis very emphatically mentioned that the regular-irregular migrants ratio from Bangladesh in Japan to be 1:6. We started moving closer with the identifications of these migrants and when we finally identified a large number of them we were not able to convince them as our command over Bangla language was not good enough to take them into utmost confidence. Most of them agreed to speak over the phones. This partly happened with the Pakistani migrants also. In a survey like this there are distinct hazards in administering the schedules over the phones. Thus we had to abandon the same.

In both the surveys, we used the help of the local people and NGOs to identify the targets and then to convince them about the rationale and usefulness of the study conducted. The language did play a very critical role.

Extensive field surveys were conducted in both India (November 2004- April 2005) and Japan (December 2004-March 2005)⁴⁷. The samples were picked up on a random basis which was validated by the researcher at a later stage. This is because not many people were forthcoming both in India and Japan for filling up or to answer to the survey questionnaire. Since the schedules were quite comprehensive, it took almost an hour for a questionnaire schedule to be administered.

Besides the sample surveys among the returned and actively working irregular migrants, this study also incorporates in it the summaries of discussion with the institutions, individuals, and officials that are involved in studying, regulating and making policies related to the irregular migrants both in the host country and the country of origin. This included institutions working on migrants, police / welfare / labour / emigration / immigration departments. These include Ministry of Labour, Ministry of Overseas Indian Affairs (Government of India), Immigration Departments in Japan and India and Regional Passport Offices information and experts working in this field of studies.

In India, a survey of 50 irregular return migrants from Punjab, and Chandigarh was conducted. In Japan questionnaires were administered to 30 serving irregular migrants. Within these irregular migrants we have categorized them into migrants who became irregular/illegal voluntarily and the migrants who were forced to remain in the host country illegally. In the former category, the situations surrounding the migrants were very much under the control of the migrants yet they chose to be irregular. Whereas in the later case, though at the initial stage the expression of desire to work in the foreign

⁴⁷ The survey in Japan could be conducted only on a Sunday as the migrants were available at their places of stay on this day alone. On many of the occasions even on a Sunday they were not available as they would have gone for the work or to attend a social function including the marriage of fellow migrants or for a weekly shopping. At the same time, we had to travel at least 5-6 hours (both ways) by various means to reach these migrants at their respective places. In some cases, we were lucky as the migrants had gathered in a particular place for a social gathering or a lunch.

country did display elements of voluntariness, the situations that prevailed in the host country forced them to adopt an irregular and illegal means to remain in that country. In many cases they were not able to come back as they did not have legal documents.

i) Voluntary Irregular Migrant:

- ❑ Left contracted job and secured another for higher pay (job hopping)
- ❑ Came as a tourist but over stayed without changing status
- ❑ Came as a student but over stayed without changing status
- ❑ Came with valid documents to the country of employment say to participate in the trade exhibition or a sports event and over stayed.
- ❑ Came with valid documents but without clearance from the country of origin.

ii) Forced Irregular Migrant:

- ❑ Those who had gone with valid documents including work contract, but their contracts were arbitrarily substituted by the employer
- ❑ Whose passport was illegally tampered by agents/middlemen, though that carried legal visa
- ❑ Who did not have adequate financial resources to go back to the country of origin.

A combination of social science research methods were used to conduct this survey study. Structured interviews were conducted with 50 returnee respondents in various locations in Punjab and 30 respondents actively working in Japan. The respondents were/are all irregular immigrants. Besides completing the survey questionnaire, we also collected a series of case studies (Appendix 1) that in fact reveal many other facts which generally do not reach the public domain. Wherever we had the opportunity to meet the parents and relatives of these return migrants in Punjab we did interview them in great details. This also included the parents of those irregular migrants who died while going illegally to the destination country or while working in these countries.

Section 1

5 *Returned Irregular Migrants in Punjab (India)*

Most of the irregular migrants who have provided information and responses to the survey schedules are from the following villages/locations :

- Village Gilzian, P.O. Miani, Distt. Hoshiarpur (Punjab)
- Village Kairon, P.O. Safderpur, Distt Hoshiarpur (Punjab)
- Village Bhoolpur P.O. Miani, Distt Hoshiarpur (Punjab)
- Village Ferozsangowal, P.O. Begowal, Distt Kapurthala (Punjab)
- PO Jalalpur, Distt Hoshiarpur (Punjab)

5.1 India : Emigration Laws⁴⁸

The Emigration Act, 1983 which came into force with effect from 30th December, 1983 embodies the guidelines enunciated by the Supreme Court of India in its judgment and order dated 20.03.1979 (Kanga Vs. Union of India & Others). It provides for a regulatory framework in respect of emigration of Indian workers for overseas employment on contractual basis. It also seeks to safeguard their interests and ensure their welfare. The Act makes it mandatory for registration of all Recruiting Agents with the Ministry before they conduct the business of recruitment for overseas employment. The certificate is granted by the Protector-General of Emigrants after taking into account, *inter alia*, the Recruiting Agent's financial soundness, trustworthiness, adequacy of premises, experience in the field of handling manpower export, etc., and after obtaining security

⁴⁸ Ministry of Overseas Indian Affairs, *Annual Report 2005-06*, Government of India, 2006, pp 17-21

deposit ranging between Rs.3 lakhs to Rs.10 lakhs in the form of Bank Guarantee. The scale of security, at present, is as under:

(i)	upto 300 workers	Rs.3.00 lakhs
(ii)	301 to 1000	Rs.5.00 lakhs
(iii)	1001 workers and above	Rs.10.00 lakhs

This security deposit is provided for to secure due performance of the terms and conditions of the Registration Certificate and also to meet any contingencies that may arise if any worker is stranded abroad. Under Section 16 of the Emigration Act, 1983, an employer can recruit any citizen of India for employment abroad either through a registered Recruiting Agent or directly by obtaining a permit issued by the Protector-General of Emigrants under Section 15 of the Act. Indian workers are also taken abroad by Indian Companies for deployment on Projects undertaken by them. The Recruiting Agents are authorized to charge, as maximum service charges, from each worker at the following rates:

- i) Unskilled workers Rs.2,000/-
- ii) Semi-skilled workers Rs.3,000/-
- iii) Skilled workers Rs.5,000/-
- iv) Other than the above Rs.10,000/-

The Government has progressively decentralized the process of emigration clearance. Currently, this is being done through the eight offices of Protectors of Emigrants (POEs) located at Delhi, Mumbai, Kolkata, Chennai, Chandigarh, Cochin, Hyderabad and Thiruvananthapuram. In order to facilitate smooth public interface, all eight POE Offices work six days a week.

5.2 Recruiting Agents

The registration of Recruiting Agents under the Emigration Act, 1983, commenced from January, 1984. By December, 2005 Registration Certificates were issued to 4589 Recruiting Agents. This figure includes nine State Manpower Export Corporations established in the States of Uttar Pradesh, Andhra Pradesh, Kerala, Punjab, Tamil Nadu, Karnataka, Himachal Pradesh, Haryana and Delhi. However, at present about 2100 Recruiting Agents are reportedly active in this business. Major concentration of Recruiting Agents is at Mumbai, Delhi, Chennai and in the state of Kerala.

India companies which are executing project abroad are required to obtain appropriate clearance from the Reserve Bank of India and verification from the concerned Indian Mission is obtained before emigration clearance is granted for taking their workers abroad. If the Project Exporters propose to send groups of workers abroad, they are required to furnish a Bank Guarantee ranging from Rs.20,000/- to Rs.5 lakh depending upon the number of workers proposed to be taken abroad. These provisions have been made to ensure adequate protection to workers while working abroad.

The workers going abroad on an individual basis recruited by or directly through foreign employers are no longer required to deposit any security following introduction of the Pravasi Bharatiya Bima Yojana w.e.f. 25.12.2003.

5.3 Emigration Checks

Categories of persons whose passports have been endorsed as “Emigration Check Required” (ECR), if intending to travel abroad for purposes other than employment are required to obtain ‘suspension’ from the requirement of obtaining emigration clearance.⁴⁹

⁴⁹ The persons seeking ‘suspension’ are required to submit a simple application in the prescribed format, produce the return ticket and passport with non-employment visa. The ‘suspension’ is granted on the same

Section 22 of the Emigration Act, 1983, provides that no citizen of India shall emigrate unless he/she obtains emigration clearance from the offices of Protector of Emigrants. However, through periodical reviews, the regulatory mechanism has been progressively liberalized. Currently, fourteen categories of persons have been exempted from this requirement and have been placed under the ‘Emigration Check Not Required’ (ECNR) category.⁵⁰

5.4 Findings of the Survey : Punjab

i) *Socio-Demographic Profile of Irregular Migrants*

Among the 50 selected return irregular migrants from Punjab, 52 percent of the migrants were between the age group of 20-25 when they first migrated. At the time of the survey, 40 per cent of the migrants belonged to the age group of 30-40.

Table 1
**Socio-Demographic Profile of
Irregular Migrants Age**

Age Group	First Migration (Nos and %)	Current (Nos and %)
< 20		
20-<25	26 (52%)	
25-<30	15 (30%)	5 (10%)
30-<35	7 (14%)	14 (28)
35-<40	2 (4%)	20 (40%)
40-<45		7 (14)
>45		4 (8)
Total number	50 (100%)	50 (100%)

day by the POE concerned. Indian Missions have also been delegated the powers to extend the period of ‘suspension’. Basically, those traveling abroad as tourists and whose passports carry ECR endorsement obtain ‘suspensions’.

⁵⁰ Persons going to 54 countries including Bangladesh, Pakistan, countries in North America and Europe (excluding certain CIS countries) are exempted from emigration check formalities. The pilgrims going for Haj and Umrah in Saudi Arabia and those pilgrims traveling with the declared purpose of performing Ziarat at Saudi Arabia, Syria, Iran, Iraq, Jordan, Egypt and Sana (Yemen) are also exempt from the requirement of obtaining ‘suspension’ from Emigration Check Requirements from POEs/ Passport offices. After a comprehensive review during 2003-04, four more countries, viz., South Africa, South Korea Singapore and Thailand have been included in the ECNR category.

As against 24 per cent of the respondents who have completed high school category, 20 per cent respondents were illiterate and 26 per cent respondent has some technical vocational trainings/qualifications. 10 per cent have completed college. Most of the illiterates illegally migrated to Middle East countries. 94 percent respondents belonged to the Sikh community and 4 per cent to Hindu and 2 % Muslim communities

Table 2
Level of Education

Qualifications	Nos and %
Illiterate	10 (20 %)
Elementary and Below	2 (4 %)
Some High School	7 (14 %)
Completed High School	12 (24 %)
Some College	1 (2%)
Completed College	5 (10 %)
Technical Vocational	13 (26 %)
Total Number of Migrants	50 (100 %)

Table 3
Religious Distribution

Religion	Nos and %
Sikh	47 (94 %)
Hindu	2 (4 %)
Christian	
Muslim	1 (2%)
Buddhist	
Others	
Total Number of Migrants	50 (100)

Among the respondents, 54 per cent irregular migrants were not married and as against 46 per cent married. Most of the married migrants have burden of family. The trend of huge expenses made on the weddings and other social functions particularly by the families having connections/relatives abroad have had serious demonstration effects in Punjab. Many of these respondents did mention that they needed huge sum of money in the family weddings which they could earn only in foreign countries. This triggers them to go abroad by any means available - legal or illegal.

Table 4
Marital Status

Status	Nos and % in parenthesis
Single	27 (54%)
Married	23 (46)
Divorced/Separated	
Widowed	
Others	
Total Number of Migrants	50 (100%)

Among the respondents, 86 per cent have 1 to 3 member size of family and 14 per cent have 4 to 6 member size of family. This does indicate that the smaller size family norm is quite dominant in among the irregular migrants. However, it was found that in many cases the irregular migrants were the only earning members of the family. This is corroborated by the following table on total number of earning members. 78 percent of the respondents have only one earning member in his family. Only 20 per cent respondent has two earning members in their families. Most of them are unskilled and unemployed and daily wages workers and have few sources of income.

Table 5
Number of Family Members

Family Size	Nos and % in parenthesis
1-3	43 (86%)
4-6	7 (14 (%))
7-10	
> 10	
Total Number of Migrants	50 (100 %)

Table 6
Total Number of Earning Members

Earning Members	Nos and % in parenthesis
1	39 (78%)
2	10 (20%)
3	1 (2%)
4	nil
>4	nil
Total Number of Migrants	50 (100 %)

Among the respondents, 42 per cent reported annual earning of between Rs 50000 to Rs 1 lakh and 22 per cent between Rs 1 lakh to 1.5 lakh. Interestingly 24 percent have reported Rs 1.5 Lakh to 2 Lakh annual income. Only 6 per cent reported annual income of Rs. 2 Lakh to 2.5 Lakh. These incomes exclude the remittances sent by the respondents from abroad. 48 per cent respondents support the 4 to 6 person in family. This was questionable response because over 78 percent of them reported the family size to be 1-3 persons. So when we asked them about why this high number of dependents almost all of them mentioned that they did send money to some of their closest relatives also. Interestingly, 32 percent of the respondents did not support any of the family members. 10 per cent respondents supported 7 to 9 members in his family.

Table 7

Total Annual Earning of the Family	
Annual Earning (Rs)	Nos and % In parenthesis
50000 - 1 lakh	21 (42 %)
1 lakh - 1.5 lakh	11 (22 %)
1.5 lakh - 2 lakh	12 (24%)
2 lakh - 2.5 lakh	6 (12%)
2.5 lakh - 3 lakh	
3 lakh - 4 lakh	
> 4 lakh	
Total Number of Migrants	50 (100 %)

Table 8

Number of Persons Supported by Migrant	
Person Supported	Nos and % in parenthesis
0	16 (32%)
1-2	5 (10%)
4-6	24 (48)
7-9	5 (10)
10 and above	
Total Number of Migrants	50 (100 %)

60 percent of the respondents were unemployed before they migrated and 22 per cent were engaged in unskilled activities/employment. 8 per cent of them were in sales business and 2 percent were employed in factories.

Table 9

Most recent Occupation Prior to First Migration

Occupations	Nos and % in parenthesis
Professional, administrative, managerial	
Clerical	
Sales including own business	4 (8%)
Factory and production	1 (2%)
Unskilled	11 (22%)
Unemployed	30 (60%)
Others (daily wages)	4 (8%)
Total Number of Migrants	50 (100%)

ii) History of Irregular Migrants

All of the respondents reported to have illegally migrated only once. Many of them mentioned that they are no more interested in going again illegally. They state that the first experience was so bad that they still had not overcome with the nightmare and cheating by agents. However, some of them are still willing to go and earn more money which they ultimately use in business development. They migrated to a range of countries to Europe, US, South East and Middle East Asian regions.

Table 11

How Many Times Migrated ?

Number of times Migrated	Nos and % in parenthesis
Once	50 (100%)
Twice	
Thrice	
> Thrice	
Total Number of Migrants	50 (100%)

Table 12

Name of Countries of Migration

East Germany, England, Lebanon
Austria
Italy, Tehran, Thailand
Belgium, Spain, USA
Canada, Dubai, Kuwait, France, West Germany
50 (100%)

46 per cent of the respondents migrated during 1990-94 and 32 percent during 1995-99. This indicates that most of them have been to the destination country and have come back to their country of origin in the last 15 years. It is interesting to note that 22 percent of the respondents returned during 1990-94. If we compare with first migration figures (46 percent) during the same period, one can deduct that a big chunk of these migrants returned home within a period of 1-4 years of migration. This is corroborated by the following table which shows that 28 percent of the respondents returned home within/in less than a year time as against 30 percent in two years and 24 percent in three years. Hardly 7 percent spent 4-7 years in the destination countries.

Table 13
Year of First Migration

First Migration Year	Nos and % in parenthesis
Before 1970	
1970-74	
1975-79	2 (4 %)
1980-84	1 (2%)
1985-89	1 (2%)
1990-94	23 (46%)
1995-99	16 (32%)
2000-2004	7 (14%)
Total Number of Migrants	50 (100%)

Table 14
Year of Last Return

Year of return	Nos and % in parenthesis
Before 1970	
1970-74	
1975-79	
1980-84	2 (4%)
1985-89	2 (4 %)
1990-94	11 (22%)
1995-99	17 (34%)
2000-2004	18 (36 %)
Total Number of Migrants	50 (100%)

Table 15
Total number of years spent as migrant?

Years spent as migrant	Nos and % in parenthesis
1 (less than one Year)	14 (28%)
2	15 (30%)
3	12 (24%)
4	3 (6%)
5	3 (6%)
6	
7	1 (2%)
>7	2 (4%)
Total Number of Migrants	50 (100 %)

54 per cent respondents mentioned the urge to get a higher income as the main cause of going abroad. As against this 16 per cent attributed the migration to the location of their relatives in destination countries. 40 per cent of the respondents emigrated through the process of irregular entry and 34 per cent through changing of passport information. 14 per cent used non-working visa during immigration and 8 percent mentioned the case of overstaying.

Table 16
Why did you choose to go to last country?

Reason for Choosing Last country	Nos and % in parenthesis
Relatives are there	8 (16 %)
Distance shorter	6 (12 %)
Host country rules easier	6 (12 %)
Income higher	27 (54%)
Better job opportunities	1 (2%)
Language easy	2 (4%)
Broker's decision	
Total Number of Migrants	50 (100%)

Table 17
Irregular Practice in Immigration

Total Number of Irregular Practice	Nos and % in parenthesis
Changing of passport information	17 (34%)
Using non working visa (Tourist)	
Using non working visa (Trainee)	
Using non working visa (Student)	7 (14%)
Overstaying	4 (8%)
Deserted contracted job	
Contract substitution by employer	2 (4%)
Irregular entry	20 (40%)
Others	
Not applicable	

These respondents followed very interesting routes to migrate to the destination countries. These routes vary both in terms of final destination and also the point of origin. Most of the respondents started their journey from Delhi and some reached as far as Mexico to enter into the USA. These responses also indicate the varieties of destinations these respondents visited and came back. Most of them actually headed for the European countries and some of the Middle East destinations. Except one respondent, no one had his destination fixed at any of the South East Asian, African, Caribbean and Latin American countries. Interestingly, unlike the popular belief that the destinations are also clusterised as per the areas/regions of origin, the actual host countries are found to be rather varied. This could be because the recruiting agents they used, the locations of their relatives abroad and also the distance factors.

iii) Cost of Migration

28 percent of the respondents mentioned that they spent Rs 2-3 lakhs to reach destination countries and 18 percent of them spent over Rs 4 lakhs. Most of these expenses were made towards passport, tickets, visa, payments to middlemen, and recruiting agents. There are however, elements of medical expenses and cash in hand also mentioned by these respondents. As far as the sources of financing these expenses made by these migrants, the most crucial source (24 percent) was loan taken from the family members without any interest burden. 22 percent of these respondents sold their properties in order to meet these expenses and 12 percent of them took loan with interest burden. Only 10 percent financed their migration through their own savings.

Table 18

**Describe the route followed from the point of origin
upto the destination in the last irregular migration:**

Destination		Number of	%
Country	Route Followed	Migrants of Total	
Saudi Arabia	Mumbai-Saudi Arabia	4	8.00
Italy	Delhi-Ukraine-Italy	1	2.00
	Delhi-Ukraine - Czechoslovakia-		
Germany	Germany	1	2.00
Germany	Delhi-Thailand-Italy-Germany	2	4.00
Thailand	Delhi-Thailand (Bangkok)	2	4.00
Germany	Delhi-Tashkent-East Germany	1	2.00
	Delhi-Tashkent- Moscow- Newrosu-		
Lebanon	Turkey-Cyprus-Syrian-Lebanon	1	2.00
Belgium	Delhi-Poland-Germany-Belgium	3	6.00
Germany	Delhi-Poland-Germany	1	2.00
Riyadh	Delhi-Mumbai-Riyadh	3	6.00
Kuwait	Delhi-Mumbai-Kuwait	2	4.00
France	Delhi-Mumbai-Kenya-Cameroon-France	1	2.00
	Delhi-Moscow-Kenya-Poland-Germany-		
Italy	Italy	1	2.00
	Delhi-Moscow-Greece (air)-Italy		
France	(ship)-France (train)	2	4.00
USA	Delhi-Mexico-USA	1	2.00
Riyadh	Delhi-MB-Riyadh	2	4.00
London	Delhi-Sri Lanka-London	1	2.00
Kuwait	Delhi-Kuwait	2	4.00
USA	Delhi-Hong Kong-Canada-America	1	2.00
Canada	Delhi-Hong Kong-Canada	2	4.00
	Delhi-Frankfurt by air and then		
Spain	by road to Spain	2	4.00
Holland	Delhi-Dubai-Holland	1	2.00
Dubai	Delhi-Dubai	4	8.00
USA	Delhi-Canada-USA	2	4.00
Canada	Delhi-Canada	2	4.00
	Delhi to Ukraine by Air/Ukraine to		
France	Italy and Italy to France by Bus	1	2.00
Hungary	Delhi – Hungary	2	4.00
Beirut	Delhi-Beirut	2	4.00
	Total	50	100.00

Table 19

How much did your last migration cost you?

Total Expenses	Nos % in parenthesis
Less than 10000	-
Rs 10000 - 25000	-
Rs 25000 - 50000	3 (6 %)
Rs 50000 -1 lakh	7 (14 %)
Rs 1 - 2 lakhs	9 (18 %)
Rs 2 - 3 lakhs	14 (28 %)
Rs 3 lakhs - 4 lakhs	8 (16 %)
Rs >4 lakhs	9 (18 %)
	50 (100%)

Table 20

How did you raise the cost of your last migration?

Modes of Financing	Nos and % in parenthesis
Own savings	5 (10%)
From family without interest	24 (24%)
Loan with interest (Rate _____)	6 (12%)
Loan to be repaid from earnings abroad	2 (4%)
Land sale	3 (6%)
Land mortgaged	2 (4%)
Sale of property (gold/ house)	8 (16%)
Sale of property (tree / cattle)	
Dowry	
Total	50 (100%)

Almost all of them stated their satisfaction on the total cost incurred which they mentioned were within their expectation. 36 percent of the respondents mentioned that the decision to migrate were their own as against 50 percent who were prompted to migrate by their nearest kith and kin. .

Table 21
Who decided for migration?

Decision to Migrate	Nos and % in parenthesis
Self	18 (36%)
Jointly with spouse	4 (8%)
Parents, brother, in-laws	25 (50%)
Relatives	2 (4%)
Friends	1 (2%)
Others	50 (100%)

iv) *Reasons for and Conditions in Migration*

56 percent of the respondents attributed their migration to search for lack of jobs and 28 percent to low income. This is true of other South Asian workers including the Nepalese working in Japan as elucidated in the following section. A survey of the Bangladeshi workers in Japan showed that their average income was found to be more than four time the highest income of civil servants in Bangladesh and about 40 times the average income of industrial workers in Bangladesh. Some of them did migrate as they had social network in the destination countries.⁵¹

68 per cent of the respondents used the services of fixers or *dalas* for entering into the destination country. 18 percent used their services for securing fake documents. Interestingly hardly 4 percent of these migrants used the services of *dalals* for sending money to their homes.

v) *Job Related History*

The responses to how these respondents secured jobs in the destination countries give us interesting insights about the networking the migrants get into once they enter into the

⁵¹ NIRA, *A Survey : Experiences of Bangladeshi Workers in Japan*, National Institute for Research Advancement, NIRA Research Report no 930025, Tokyo, 1994 pp 43-44 as quoted by Yasuo Kuwahara, "Japan's Dilemma : Can International Migration be controlled ?" in *Temporary Workers or Future Citizens*, p 370

destination countries. For instance, 30 percent of these respondents secured their jobs through *dalals*, another 30 percent through their friends and 16 percent through their relatives. This in a way indicates the pre-entry linkages between the potential/prospective migrants and the migrants who are already working in the destination countries.

Table 22

Reason	Nos and % in Parenthesis
Structural	
Landless due to bank erosion	
Famine like condition	
Floods	
Others _____	
Economic	
To escape poverty	
Death of earning member	
Lack of job	28 (56%)
Low income	14 (28%)
Others _____	
Social	
Escape family problem	
Get away from drugs	
De-link with criminal network	
Others _____	
Political	
Political persecution	
To escape further involvement with politics	
Others _____	
Catalytic	
Social network	5 (10%)
Dalal	
See new world	
Demonstration effect	3 (6%)
Total	50 (100)

Table 23

**At what stages of your migration have you
availed services of “fixers” or *dalals* ?**

Services Availed	Nos and % in parenthesis
-------------------------	---

Securing information about overseas	
Employment	
Advancing money	
Securing fake documents	9 (18%)
Leaving own country irregularly	
Entering into the country	34 (68%)
Escorting migrants	1 (2%)
Finding a place to stay	1 (2%)
Finding a job in destination country	1 (2%)
Sending remittance	2 (4%)
Securing medical service	
Others (no any support)	2 (4%)

Table 24

**How the first job was secured in the
country of destination?**

Job securing modes

Dalals / Agents
Clandestine recruiting Agency
Legally registered recruiting agency
Relatives
Friends
Indian Migrant Fellow in Destination Countries
Total

Table 69

**At what stages of your migration have you availed
of “fixers” or *dalals* or illegal agent?**

Services Availed	Nos and % in
-------------------------	-------------------------

	parenthesis
Securing information about overseas employment	
Advancing money	
Securing fake documents	
Leaving own country irregularly	17 (56.6)
Entering into the destination country	17 (56.6)
Escorting migrants	1 (3.3)
Finding a place to stay	
Finding a job in destination country	10 (33.3)
Sending remittance	30 (100)
Securing medical service	1 (3.3)
Visa securing	11 (36.7)
Not at all (except the Hundi system)	7 (23.3)

These migrants followed a variety of routes to reach the present place of stay in Japan. Over 33 % followed the Kathmandu-Bangkok-Tokyo (Narita) route. Some of them even reached their present destinations via Shanghai, Singapore, Seoul and New Delhi. Besides the air ticket costs, one of the major determinants of the route followed was the advice given by the facilitating broker and the contact person (including friends) in Japan.

Table 70
**Route followed from the point of origin
 upto the destination (Japan) by the Migrants**

Route Followed	Number of Migrants	% of Total
Kathmandu-Singapore-Narita	3	10
Kathmandu-Bangkok-Nagoya	3	10
Kathmandu-Bangkok-Tokyo (Narita)	10	33.3
Kathmandu-Shanghai-Osaka	8	26.7
Kathmandu-Delhi-Bangkok-Narita	3	10
Kathmandu-Bangkok-Osaka-Haneda	1	3.33
Kathmandu-Bangkok-Seoul-Narita	1	3.33
New Delhi-Narita	1	3.33
Total Migrants	30	100

iii) Cost of Migration

Some of the migrants paid hefty amounts to enter into Japan. Over 70 % of the migrants spent a sum varying from NRs 5 Lakh (US \$ 7142) to NRs 9 lakh (US \$ 12857) to facilitate their

reaching the destination country.⁵² However, 23 % spent normal amount of airfare and visa fees as these potential migrants were either on an official visit or on a business visits. Some of them did not have to pay these also as they were reimbursed by their respective organisations. However, they wanted to mention this in our survey as net pocket expenses they spent while reaching the destination country.

Most of the respondents mentioned that besides airfare their expenses included visa fees, brokers and even touts charges and in some cases bribes to the various officials.

Table 71
How much did your last migration cost you?

Total Expenses (Nepali Rs)	Nos and % in parenthesis
Rs 50000 -1 lakh	7 (23.3)
Rs 1 – 1.9 lakhs	2 (6.6)
Rs 2 - 2.9 lakhs	
Rs 3 - 3.9 lakhs	
Rs 4 – 4.9 lakhs	
Rs 5 – 5.9 lakhs	4 (13.3)
Rs 6 – 6.9 lakhs	10 (33.3)
Rs 7 – 7.9 lakhs	6 (20)
Rs 8 – 8.9 lakhs	1 (3.3)
Rs 9 – 9.9 lakhs	
-> Rs 10 lakhs	
Total Migrants	30 (100)
Note : 1 US \$ = Nepali Rs 72	

On the question of how they managed to mobilise these resources spent on the migration, the respondents gave a multiplicity of factors. Majority of these migrants drew this money from a combination of multiple sources. Over 53 % said that they drew some part of it from their own savings. Another 36 % said that they had borrowed money on the condition that they will repay the same after they start working in Japan. Along with this many of them mortgaged and even

⁵² This is found to be lower by about 23 to 57 % than what the illegal migrants and workers pay to intermediaries to enter into Japan from Thailand. The Snake heads charge much more than this. Iguchi, Yasushi, “Illegal Migration, Overstay and Illegal Working in Japan : development of Policies and their Evaluation” in *Combatting the Illegal Employment of Foreign Workers*, OECD, Paris, 2000, p 159

sold their properties including land and even gold. Some of them paid interest rates varying from 18 to 36 % per annum.

Over 53 percent of these irregular migrants said that the cost incurred by them in migrating to their present destination was more or less expected. Some of them even mentioned that given the attraction to work in Japan they had expected to be much higher. On the other hand, over 46 percent said that the actual expenditures were far beyond what they had expected to spend in the process of their migration. Many of them did mention that the brokers enticed them to pay such a hefty amount on two grounds. Firstly, they said that the rules and situations were becoming tougher and hence it will be more expensive if they delay the migrating decision. Secondly, they promised a hassle

Table 72
How did you raise the cost of your last migration?

Modes of Financing	Nos and % in parenthesis
Own savings	16 (53.3)
From family without interest	4 (13.3)
Loan to be repaid from earnings abroad with interest	11 (36.7)
Land sale	2 (6.6)
Land mortgaged	3 (10)
Sale of property (gold/ house)	5 (16.7)
Sale of property (tree / cattle)	
Others	1 (3.3)

free transit and friendly entry. Many of the migrants had very often heard the harrowing stories of how the migrants were arrested in alien country and how brokers abandoned them in dire circumstances. These irregular Nepali migrants and their families wanted to be free of these worries and hence willing to pay a slightly higher price to a better broker or agency.

Table 73
**Was the total cost incurred
 within your expectation ?**

Yes	16 (53.3)
No	14 (46.7)
Total Migrants	30 (100)

iv) Reasons for and Conditions in Migration

66 % of the respondents said that the decision to migrate was taken by them only. In fact most of these migrants falling under these 66 % said that they were motivated and attracted by much better living standard of their friends and neighbours whose relatives had gone abroad. They also mentioned that to a large extent they were even forced by the very poor scope of improving their living standards with the wages and employment opportunities that are available in Nepal. Many of them very engrossingly stated about the fast deteriorating political situation in the country because of the Maoists movement and inept governance by the political parties and the King. They did mention that they had an easy option to go to India at a fraction of the cost but they found that going to India would not bring them any significant change in their living standards.

Interestingly at least some of the respondents mentioned about the very prosperous and bubble economy of Japan which actually attracted them. Apparently they did not know the fast slide down in the Japanese economy since mid 1990s. An irregular migrant who had come to Japan for the second time narrated his impression. “When I came to Japan for the first time in 1989, I was surprised to see people (brokers) waiting for a *Gaijin*

Table 74
Who decided for migration?

Decision to Migrate	Nos and % in parenthesis
Self	20 (66.7)
Jointly with spouse	6 (20)

Parents, brother, in-laws	
Relatives	1 (3.3)
Friends	
Others	3 (10)*
Total Migrants	30 (100)

Note : * Mainly brokers

(foreign) worker at the airport. As soon as they saw me they started showing hand signals saying I should go to them so that they will help us in getting a job instantly. And it was so easy to get a high paying job. Though I was irregular then also, I earned good money within three years of my stay. I expected these brokers to be there again when I came here exactly after 10 years in 1999. But hardly any broker I could see. Later I realized that Japanese economy was not doing well”.

v) ***Job Related History of Irregular Migrants***

Interestingly unlike what we had expected, over 73 % said that the first *shoku* (job) they did was actually secured through their friends and relatives. Respondents call this act of meeting and discussing as *Shokai*. Hardly 27 % mentioned that their first job was secured through *nakagainin* (brokers). This shows that the migrants had a considerably good networking (possibly much before they reached Japan) with both people working under similar circumstances and also the regular Nepali/Indian migrant populations. This also means that the Nepali/Indian diaspora in Japan has good humane-community support and communication linkages to assist the fellow countrymen in times of needs. During our visit, the settlement pattern and living styles of these Nepali irregular migrants did very clearly reveal that they avoided mixing up with migrants from other countries and ethnic groups including from the neighbouring South Asian countries (Bangladesh, India, Pakistan and Sri Lanka).

However, there is an interesting catch here. Even if the job is secured through a friend, when the migrant actually goes and does the job, it is done through a local *nakagainin* (intermediary). This means it is this *nakagainin* (broker) who negotiates the wage between the job provider (*Saanchō/Yatonushi*) and the job seeker. It is never a face to face negotiation and fixation. The

Saancho does it on a one to one basis. This means the job seeker does not know what is the wage negotiated between the *Saancho* and the broker. The latter only announces the work, the daily schedule, the actual wage and the payment schedule to the job seeker. The payment of wage is never made directly by the job provider. It is always broker who pays the wage to the concerned migrant worker. Hence the migrant worker never knows as to how much is actually paid by the *Saancho* to the concerned broker as his wage. Many of the senior migrants do mention that the brokers take at least 20- 40 percent of the wages as commission.

The question is why the *Saancho* (job provider) uses the services of these brokers ? Though there are explanations varying from cultural nationalism to abhorrence to trade unionism, many of the migrant workers feel that these brokers also work as legal shield to such illegal employment and wage payment. In other words, it is widely believed that these brokers generally ensure that the factory using the services of the irregular workers/migrants remain away from the glare of the governmental agencies that punish these violators of immigrations rules. There are also views that these *nakagainins* (brokers) are so well organized that without them some of these factories cannot smoothly run. One of the migrants did say that these brokers are all season friends of the factory owners as they can both mobilise and withdraw the irregular migrant workers whenever called for. Despite the risk of heavy cost of sanctions and punitive actions (2 to 3 million yen i.e. \$ 20000-30000) the employers continue to hire irregular migrants mainly because of differences in wages, differences in social charges like health and safety and flexibility in the production process.

These brokers freely operate despite laws that clamp down on their activities. Besides its usual labour standard related activities, the Public Employment Service (PES) under the Ministry of Labour in Japan is also meant to combat illegal intermediaries and protect workers from vile brokers. The authorities are fully aware of this and admit that “among the employers of illegal foreign residents, some businesses take advantage of the illegal foreign residents as cheap labor amid severe economic competition. There are also some brokers who attempt to illegally earn

massive incomes by helping illegal foreign residents obtain jobs.”⁵³

“Some firms indirectly employ illegal immigrants via brokers to avoid employer sanctions; others cannot offer arrangements such a housing and transportation, and depends on brokers, who routinely handle such matters. These firms often have no desire to deal with the legal status of such workers. For their managers, the presence of bodies is sufficient. Illegal immigrants consequently often find themselves victimized by unscrupulous brokers and employers. The Ministry of Justice has established special research reams in Tokyo and Osaka to identify such brokers and employers, yet the numbers of violations have rapidly increased.”⁵⁴

Table 75
**How the first job was secured in the
country of destination?**

Job securing modes	Nos and % in parenthesis
Dalals / Agents	8 (26.7)
Clandestine recruiting Agency	
Legally registered recruiting agency	
Friends	19 (63.3)
Others including Relatives	3 (10)
Indian Migrant Fellow in Destination Countries	
Total Migrants	30 (100)

Most of the respondents have frequently changed the jobs. In doing so they are assisted by brokers, friends and other networking. It is found that over 65 % of the respondents had changed their jobs from 3-6 times. Only 3 % had changed the jobs only once. What does this show? This in a way indicates that the very nature of jobs do not encourage a migrant worker to stick to one job mainly because it could attract risk of being detected which is dangerous for both the job provider and the migrant worker. Secondly, this frequent change is also attributed to better wages available elsewhere as the respondents felt that they would like to earn as much

⁵³ *Basic Plan for Immigration Control (3rd Edition) provisional translation II_ Salient Points Concerning Foreign Nationals' Entry and Stay*, <http://www.moj.go.jp/ENGLISH/information/bpic3rd-02.html> as visited on 25/6/2006

⁵⁴ Kuwahara, Yasuo , “Japan’s Dilemma : Can International Migration be controlled ?” p 378

as possible in a short span of time. They know that they could be arrested and deported any moment. Thirdly, it is also stated that the market for the migrant workers are ever expanding as the local people are not willing to do the 3 k jobs *Kitanai* [dirty], *Kitsui* [hard] and *Kiken* [dangerous] that the former are doing. This situation of ‘complementary insertion’ where there is demand but no supply as the national labour force to work because of working conditions or the social status given to that type of employment is widely prevalent in Japan. Another aspect of this situation is ‘additional insertion’ under which the host country “nationals reject jobs on account of low salaries and the immigrants participation further depresses the wages.” This therefore “becomes a typical avenue for assimilation of illegal migrants”.⁵⁵

Table 76
Job Hopping

Number of changed jobs	Nos and % in parenthesis
1	1 (3.3)
2	7 (23.3)
3-4	8 (26.7)
5-6	12 (40)
7-8	2 (6.7)
Total Migrants	30 (100)

In other words, the Japanese workers also have wider, better and more attractive choices despite the economy not doing well. Iguchi mentions that the Japanese workers donot work in certain specific areas because of low wages (textile), poor working conditions (fabrication and metal) and irregular working time (food and drink).⁵⁶

vi) Other Working Conditions

During the time of the survey, over 66 % of the respondents were working in factories, 13 % in construction activities and 10 % in sales and business related activities. The nature of jobs varied from “lifting of iron machines and hanging them for painting” and “fixing ACs in

⁵⁵ Marmora, Lelio, *Migration and Development*, (Translation by International Organisation for Migration, Geneva, 1999, p 89

⁵⁶ Iguchi, Yasushi, *ibid.*, p 162

hotels and homes” to “electroplating”, “wood furniture making”, “car welding” and “printing press activities”. Some of them did assembling job and plastic packaging and others cut vegetables and meat to make them ‘ready to use’. However, unlike others like Filipinos and Koreans, no South Asian migrants covered by this survey worked in entertainment related activities and at restaurant as hostess, waitress, bar tenders and cooks. On the other hand, though many of the owners of the restaurants and other shops owned by the South Asians in Japan deny to have recruited the irregular migrants, our discussions with some of the regular migrants working in some of these outlets gave us impressions that a significant number of them have been working in these outlets and concerns.

Though 70 % of the migrants expressed satisfaction of the regularity of their jobs, over 16 % mentioned that the nature of their jobs were very irregular. This means that the factory owner called them only when he had some jobs to be done by the irregular workers. This practice of “no work no engagement” mostly happened with very fresh migrants who had problems with communications and who had not developed adequate contacts that enable him to switch over to other jobs.

Table 77

Nature of Jobs	Nos and % in parenthesis
Professional, administrative, managerial	
Clerical	
Sales including own business	3 (10)
Factory and production	20 (66.7)
Plantation	
Construction	4 (13.3)
Domestic workers and cleaner	
Unemployed	
Not applicable	
Others	3 (10)
Total Migrants	30 (100)

Table 78

Job Condition	Nos and % in parenthesis
Very Regular	3 (10)
Regular	18 (60)
Irregular	4 (13.3)
Very irregular	5 (16.7)
Total Migrants	30 (100)

Over 55 % of the respondents reported that they work for 8 hrs a day and 43 % responded that they work between 9-12 hrs. Similarly 50 percent of them mentioned that they are engaged for five days as against the other 40 percent who work for six days a week. All the respondents were happy to be engaged for so many hours as the wage payment was on an hourly basis. In fact, many of them wanted to be engaged for more hours both to earn more and be away from the solitude and boredom generated by their very legal status. It is found that the marginal rate of substitution between income and leisure is quite high in most of the surveyed cases. They clearly stated that it is better to work and earn than “subject ourselves to psychological distress” and “all alone torture” in a place far off from family and society. Many of them want to know about the means to reduce their vulnerabilities.

70 % of the respondents spent less than 30 minutes to reach their working place. Most of them used their own bicycles and avoid using any form of public transports. This indicates that the irregular migrant workers who mostly live in clusters tend to hover around the places where the work sites are rather very near. It is literally a situation of home to work and back to home. In other words they want minimum possible exposure to the *keisatsu* (police). Under such circumstances the chances of committing crime by these workers are rather very low.

They are in settlements term fairly dispersed on all national soil (*kakusan*) including in Tokyo, Saitama, Chiba, Kanagawa, Aichi, Osaka, Shizuoka, Hyogo, Ibaraki, Nagoya and Nagano. The Government officially mentions “the number of illegal foreign residents working or living in one location has decreased and illegal foreign residents have dispersed more widely. This trend

has made it difficult for authorities to detect illegal foreign residents.”⁵⁷ At the same time since the migrants live in clusters it is very difficult to distinguish between the legal and illegal.

Table 79 (79a)

Job Hours	Nos and % in parenthesis
0 - 5 hrs	
6-7 hrs	
8 hrs	17 (56.7)
9 – 12 hrs	13 (43.3)
> 12 hrs	
Total	30 (100)
Migrants	

Table (79 b)

Table 80

Working Days per week	Nos and % in parenthesis
< 3 days	
4 days	
5 days	15 (50)
6 days	12 (40)
7 days	3 (10)
Total Migrants	30 (100)

⁵⁷ *Basic Plan for Immigration Control (3rd Edition) provisional translation II_ Salient Points Concerning Foreign Nationals' Entry and Stay*, <http://www.moj.go.jp/ENGLISH/information/bpic3rd-02.html> as visited on 25/6/2006

No respondent quoted an hourly wage rate of less than Yen 800. Over 43 % were found to be working with a wage rate of Yen 1000 (US \$ 9) or more per hour and 30 % earned Yen 900 or more. Even after the high cost of living in Japan is taken into account this wage rate is far higher (almost 18 times) than the worker would have earned back home in Kathmandu. The likely wage rate in Kathmandu for a similar activity will be NRs 260- 300 for 6-8 hours work

schedule which comes to	Commuting time from	Nos and %	about US \$ 4 (0.52 cents
per hour). No respondent	place of residence to	in	had any complaints in
terms of regularity in	place of work (one	parenthesis	payment which was done
on a monthly basis for 76	way)		% and weekly for 23 %
of the surveyed migrants.	< 30 minutes	21 (70)	
	30 minutes - < 1 Hour	6 (20)	
	1 - 1.5 Hours	3 (10)	
	2 Hours		
However, almost 80 % of	2.5 Hours		the respondents felt that
there was a blatant	Total Migrants	30 (100)	discrimination against

the migrant workers in terms of the level of wages. Over 36 % believed that the Japanese workers were paid at least Yen 400 more per hour than the migrant workers. Over 13 % of the workers were of the opinion that this wage difference was to the extent of 600-1000 yen per hour. This was found to be the case in earlier study on Bangladeshi

Table 81

Wage per hour in Yen#	Nos and % in parenthesis
500 - 600	
600 - 700	
700 - 799	
800 - 899	8 (26.7)
900 - 999	9 (30)
>_ 1000	13 (43.3)
Total Migrants	30 (100)

Note : # All of them are paid on per hour basis.

During the time of the survey the exchange rate was 1 US \$ = Yen 110

Table 82

Payment Schedules	Nos and % in parenthesis
I Very Regular	30 (100)
Regular	
Irregular	

	Very irregular	
2	Daily	
	Weekly	7 (23.3)
	Fortnightly	
	Monthly	23 (76.7)
	Total Migrants	30 (100)

irregular workers. It found that the average income of the Bangladeshis working as labourers in Japan is about 45 percent of that of Japanese workers with similar duties. It also found that their wages were less than that of workers from Latin American and other Asian countries both because of their illegal status and discrimination by employers.⁵⁸

Only 10 % of the respondents felt that there was discrimination in the wage level between the South Asian migrant workers and other migrant workers say from Korea, Panama and Philippines. They stated that this difference did vary from Yen 100 – 400 per hour.

Table 83
Did you face any discrimination in wage payment to you vis-à-vis local (Japanese) workers (%) ?

Yes	No
24	6

Table 84
How high was local workers (Japanese) wage as against yours ?

Higher by (per hour in Yen)	Nos and % in parenthesis
100-300	
400	11 (36.7)
500	3 (10)
600	2 (6.67)
700-1000	2 (6.67)
> 1000	6 (20)
Total Migrants who said yes	24

Note : # All of them are paid on per hour basis.

⁵⁸ NIRA, *A Survey : Experiences of Bangladeshi Workers in Japan*, National Institute for Research Advancement, NIRA Research Report no 930025, Tokyo, 1994 as quoted by Yasuo Kuwahara, "Japan's Dilemma : Can International Migration be controlled ?", in *Temporary Workers or Future Citizens* p 370

During the time of the survey the exchange rate was 1 US \$ = Yen 110

Table 85

Did you face any discrimination in wage payment to you vis-à-vis other migrant workers (%) ?

Yes	No
3 (10)	27 (90)

Table 86

How high was other migrants wage as against yours ?

Higher by (per hour in Yen)	Nos and % in parenthesis
100-300	1 (3.3)
400	2 (6.67)
500	
600	
700-1000	
> 1000	
Total Migrants who said yes	3

Note : # All of them are paid on per hour basis.

During the time of the survey the exchange rate was 1 US \$ = Yen 110

Though some migrant workers did report some benefits (including medical support, gas, electricity, bonus and accommodation) other than the wages extended by their employers, over 66 % of the respondents mentioned that they got nothing more than the wages. Some of them even mentioned about the tax cuts by the job providers.

Table 87

Other benefits of work (*)

Type	Nos and % in parenthesis
Accommodation	3 (10)
Food	
Clothing	
Bonus	2 (6.6)
Festival tips	

Weekly holiday	
Annual holiday	
Medical cost	4 (13.3)
Lump sum help on Puja, Eid, X'Mas	
Others	1 (3.3)
Nothing	20 (66.7)
Total Migrants	30 (100)

Over 26 % of the respondents stated that they were sent out of their usual work place to work in other places by their employers. Most of these other factories/business were also owned by the same employers. Though not a single respondent complained of any restrictions in their movement by their employers including to watch movies and meet friends, at least 13 % of them reported that they faced physical harassments from their employers. Most of the respondents stated that they could not go to the cities and moved around with fear writ in their faces even in the places of their stay. *"Darai-Darai jane"* i.e. move around with deep fear and apprehension and *"bahut hi hoshiyarike sath chalna padta hai"* i.e. "one has to be extraordinarily careful". Some of them stated that "Tokyo city was more hostile to them and its Mayor Ishihara-san is deadly against foreigners of our category from South Asia. We fail to understand. They say '*manche pani chahincha ani wapas pathauchu pani vancha*' (they say that they require people and at the same time they threaten to send us back). But if they want they can easily find us out and send us back also." "Where is the freedom for us in actual sense, we fear police and immigration authorities from minute to minute? It is torturous and inhuman. If one is out of job even for a week, in an alien land the mental torture becomes a silent killer" quipped another migrant.

Table 88

Did your employer send you to others for work?	
Did your employer send you to others for work?	Nos and % in parenthesis
Yes	8 (26.7)
No	22 (73.3)
Total Migrants	30 (100)

Table 89

Was there restriction on your freedom of movement from the employer?

Response	Nos and % in Parenthesis
Yes	
No	30 (100)

Table 90
**Was there any restrictions on
entertainment and meeting ?**

Restrictions	Yes	No
Entertainment		30 (100)
Meeting your friends and relatives		30 (100)
Total Migrants	30	30 (100)

Table 91
**Did you face any physical harassment
from the employer ?**

Response	Nos and % in parenthesis
Yes	4 (13.3)
No	26 (86.7)

Over 56 % of the respondents stated that they lived in 2 bed room house and 16 % lived in 3 bedroom house mostly of 10 feet by 10 feet size each. Interestingly, 53 % shared the house with 3 co- dwellers and 26 % with 2 co-dwellers. No respondent had a child living with them. An insignificant number of migrant workers complained of not getting regular water supply.

Though during our usual Sunday visits there would be presence of regular migrants in our meeting with the irregular migrants, there was no instance where these two categories of migrants lived together. In other words, they maintained very comfortable distance in many respects. It is very interesting to note that they relish both Japanese and their own foods

together. The way they decorate their dwellings show as if they are all Japanese people. They sleep in *tatami*, eat/drink *nato* and *miso* soup with chilly powder and *garam masala* brought from nearby convenient stores popularly called *Halals* mostly run by the South Asians (the names of the exact owners are withheld in the interest of the irregular migrants). One hears them quite often say “*araghitto*” and “*hi domo*” with smiling and unhesitating bow downs. It is a distinct case of what we call alienated cultural assimilation where one is kept out of the mainstream culture yet there are strong signs of assimilation. Are these forced acculturation and assimilations? When we asked this question most of the respondents stated that “the Japanese themselves are so harmless people and culturally so benign that you feel like doing every thing they do. More importantly back home we do same thing in our society.” They do mention that such cultural assimilations are difficult to find among other irregular migrants.

Table 92
Nature of dwelling

Size of the Room	Nos and % in parenthesis
8 feet by 8 feet	3 (10)
10 feet by 10 feet	24 (80)
12 feet by 12 feet	2 (6.6)
15 feet by 15 feet	1 (3.3)
> 15 feet by 15 feet	
One Big Hall	
Tents	
Multistoried	
Bedding	

Table 93

Number of Rooms	Nos and % in parenthesis
One	6 (20)
Two	17 (56.7)
Three	5 (16.7)
Four	2 (6.6)
Total Migrants	30 (100)

Table 94

Number of Co-dwellers in the House	Nos and % in parenthesis
One	3 (10)
Two	8 (26.7)
Three	16 (53.3)
Four	3 (10)
Five	
Six	
Total Migrants	30 (100)

Table 95

Amenities in the Room	Nos and % in parenthesis
Running water	28 (93.3)
Toilet shared	25 (83.3)
Kitchen shared	25 (83.3)
Total Migrants	30 (100)

vii) Migrants Remittance

Expectedly all of them have been sending money to their homes and relatives. In the last one year over 36 % had sent money thrice and 17 % had sent the same between 5-10 times. 50 % had sent the money to their parents and 40 % to their spouses.

Table 96

Do you send money to your family at home?	
Did you send money to your family at home?	Nos and % in parenthesis

Yes	30 (100)
No	
Total Migrants	30 (100)

Table 97

Remittances pattern of last one year

Number of Times	Nos and % in parenthesis
Once	3 (10)
Twice	8 (26.7)
Thrice	11 (36.7)
Four times	3 (10)
5-10 Times	5 (16.7)
Total Migrants	30 (100)

33 % had sent NRs 4 lakh each (US \$ 5555) and 20 % had sent NRs 5 lakh (US \$ 6944) and 10 % had sent NRs 7 lakh (US \$ 9722) in the last one year prior to this survey. By the Nepalese national standard it is a very high income transfer. The respondents themselves say that such transfers are very rarely found in case of remittances sent by the Nepali workers of similar background from other countries.

Table 98

Amount sent in Nepali Rs During last one year (roughly)	Nos and % in parenthesis
1-2 Lakh (US \$ 1388-2777)	2 (6.67)
3 Lakh (US \$ 4166)	8 (26.7)
4 Lakh (US \$ 5555)	10 (33.3)
5 Lakh (US \$ 6944)	6 (20)
6 Lakh (US \$ 8333)	
7 Lakh (US \$ 9722)	3 (10)
8 Lakh (US \$ 11111)	
9 Lakh (US \$ 12500)	
> 9 Lakh	1 (3.3)
Total Migrants	30 (100)

Back home these remittances were used for a variety of purposes. 76 % mentioned that it was used for sustenance of own family (spouse and children). Over 46 % stated that it was used for loan repayment and 53 % said that it was used for children education. Many of the migrants mentioned that they could not only buy land and construct houses but could also save money from these remittances.

An overwhelming majority of 93 % had sent the money through *Hundi* operator. This they say is the safest and most time tested instrument of transferring money to their respective homes. There are hardly any forgeries and crimes in the money sent through this route. This encourages the migrants to remain away from the complex route of organized financial institutions. At the same time, the legal route is not used mainly to avoid any detection and identification of the senders. It is further made convenient and

Table 99
Use of Remittance (In last one year)

Reasons	Nos and % in parenthesis
Sustenance of own family (spouse and children)	23 (76.7)
Sustenance of extended family	12 (40)
Own child's education	16 (53.3)
Education of other members of the family	1 (3.3)
Medical cost of family members	1 (3.3)
Loan repayment	14 (46.7)
Land purchase	2 (6.6)
Home construction	3 (10)
Release of mortgaged land	
Business investment	
Savings	12 (40)
Litigation	
Dowry	
Religious and social occasions (Puja, Eid, X Mas)	
Social ceremony such as weddings	
Community development activities	
Donation to relatives	
Financing migration of other family members	
Religious contribution (Temple, mosque, <i>sadqa</i>)	

Others

reliable as in most cases the *Hundi* operators are the Nepali/Indian nationals only. The confidence on the *Hundi* operators remain intact despite the fact that 20 % of the migrant workers reported to have lost money temporarily. In two exceptional cases, the *Hundi* operators were arrested by the police and quite a few people suffered as the money they sent did not reach. Soon after these arrested operators were replaced by two others and money was delivered to their relatives full after 6 months. The respondents were worried. This however, further consolidated the bond and confidence.

The modus operandi of a *Hundi* operator at the first sight is rather simple and direct. As money given here reaches the targeted destinations safely within few days. The migrants workers get confirmation of the receipt both through *Hundi* operators and also through their relatives over the phones. However, the mechanism within the Hundi operations is far more complex with market linkages in many countries including in Singapore, Thailand and Hong Kong.

The *Hundi* operators at the time of this survey were transferring/remitting 1 US dollar at the rate of Yen 112 to 118 from each worker. This was against the market rate of Yen 107-110. This difference in conversion rate of Yen 5-8 per dollar was taken by the *Hundi* operators as transfer fees or commission.

The popular belief that post 9/11 there has been a massive operations against the large scale money transfers through illegal channels like *Hundi* and *Hawala*, have not really affected the *Hundi* operators in Japan. 2002.

Table 100

To whom did you send the money	Nos and % in parenthesis
Parents	15 (50)
Spouse	12 (40)
Brother/Sister	3 (10)

In laws	
Children	
Total Migrants	30 (100)

Table 101

Method of Sending Money	Nos and % in parenthesis
Money Order	
Bank Draft	
Self (when went home)	
Friends/relatives	2 (6.6)
Dalal	
Hundi Operator	28 (93.3)
Total Migrants	30 (100)

Table 102

Have you ever experienced losing the remittance you have sent home?	Nos and % in parenthesis
Yes	6 (20)
No	24 (80)
Total Migrants	30 (100)

As widely expected over 60 % of the respondents reported that they were able to acquire new skills during their stay in Japan. For them the most critical learning experience has been the ‘work culture’ and ‘discipline’. One of them quipped “ if I work for the same hours with same dedication in Kathmandu, I may earn the same money also” All of them stated that they could get language training and are now in a position to converse in basic Japanese. However, over 90 % emphatically mentioned that they could get nothing in terms of their educational development. Some of the respondents who had acquired skill in different fields did mention that they may not be able to use these skills back in home country. Whereas many of them felt that they could use the same very gainfully in their country and could even help them in starting some self employment ventures. The Indian respondent was so impressed by the *gomi* (garbage) disposal system that he kept saying that his main mission when he goes back to Delhi will be to introduce this practice in his locality.

Table 103

Did you get any scope for Self Improvement ?

Areas of Self Improvement	Yes	No
Skill Development	19 (63.3)	11 (36.7)
Education	2 (6.7)	28 (93.3)
Language Training	30 (100)	

Over 90 % of the migrants said that their aspirations to be self sustaining and to migrate out of the country were fulfilled after coming to Japan and 76 % felt that their wish to ensure children's sustenance were also fulfilled. 66 % stated that their desire to stay away from political problems in home country and ensure personal security was fulfilled. Over 63 % expressed the hope that their wish to build income generating assets at home will be soon fulfilled. Though 53 % of the respondents thought of bringing their relatives as migrants to Japan, over 16 % did not want to take their relatives at all. "*ghumaunu lyaune tara kam chanhi nagaraune*" i.e. I will bring them to go around this country but not for any employment purpose. Similarly 53 % mentioned that their desire to have access to better health care was fulfilled.

Table 104

How much of migration related aspirations were fulfilled ?

Aspiration / Level of Fulfillment	Fulfilled	Partially fulfilled	Will be fulfilled	Will never be fulfilled	Not applicable
Ensure own sustenance	27 (90)	3 (10)			
Ensure own and children's sustenance	23 (76.7)	7 (23.3)			
Ensure parents' sustenance at home	9 (30)	14 (46.7)	7 (23.3)		
Job with relatively better wage than home	21 (70)	5 (16.7)	4 (13.3)		
To stay away from political problems in home country and ensure personal security	20 (66.7)	3 (10)			7 (23.3)
Liberation from persecution by brother, sister-in-law, husband and parents in law	2 (6.7)				28 (93.3)
To build income generating assets at home	2 (6.7)	5 (16.7)	19 (63.3)	4 (13.3)	
To form capital for self or	9 (30)	10 (33.3)	7 (23.3)	4 (13.3)	

family business					
To eventually migrate to another country	28 (93.3)	2 (6.7)			
To facilitate employment of other members of households overseas	2 (6.7)		16 (53.3)	7 (23.3)	5 (16.7)
Access to better health care	16 (53.3)	9 (30)		5 (16.7)	

However, some of the migrants found the health care access very cumbersome, costly and at times highly risky because of their irregular status. One of them sarcastically mentioned that “most of us who are working in the factories donot expect any compensation or health care support from the employers. The moment we have some injuries etc they tell us to quit. We have seen the local people taking their pets to the best doctors and hospital around. We feel jealous about these pets. Many people also talk about how Japanese people extend special treatments to Americans. We feel bad about these exclusionary and discriminatory attitudes of the Japanese people. Back home we hold Japanese people in very high esteem. We say among ourselves that if someone wants a better access to health care in this country, he/she should come here either as pets or as Americansirregular migrants”. They also feel that many Japanese felt superior to other Asians and connected them more with the west rather than Asia. Okamoto feels that this is because of the historical past when most Asian countries were being colonized by Western Europe, Japan has had a policy of "Leave Asia, Join Europe" since the restoration of the Meiji Emperor in 1868, by which it gave up on a backward Asia and was admitted into the circle of Western countries.⁵⁹

The other migrant elaborated further, “this is a country of contradictions, there is an open sex system on the one hand, but if you touch a woman by mistake in the metros, police immediately books you under the most rigorous laws. How can we be *fuho imin* (illegal immigrants) when we are paying taxes on income, food, telephones, clothings etc ? They treat us in the pattern which they themselves call *tsukaisute* (use and throw away). Possibly nowhere we find a country making so fine distinctions except in Japan. Here they have three concepts/varieties of foreigners viz., *konomashii gaikokujin* (Good/desirable foreigner),

⁵⁹ Masataka Okamoto, Ibid.

huryouna gaikokujin (bad foreigner) and *konomashikunai gaikokujin* (undesirable foreigner). And we belong to the last category.”

All the migrant workers communicated with their relatives over the phones. They spent Yen 5000 to 7000 per month on telephone calls. Some of them do use e mails. Hardly 13 % reported that they faced problems in communications with their relatives. Though they get long hours less expensive cards through various agencies, they find it difficult to use roadside telephone booths. Unstable situations back home like the emergency declared by the King in Nepal in February 2005 makes it impossible for them to talk to their relatives. This happened when we were conducting this survey. The anguish was reflected in every migrant’s face.

Table 105

How do you communicate with your home?

Means of communications	Nos and % in parenthesis
Letter	1
Phone	30
Fax	
E mail	7
Through friends and relatives	
Audio/video cassettes	

Table 106

Did you face any communication problem?

Yes	No
4 (13.3)	26 (86.7)

None of the migrant workers surveyed stated about any link with the local trade unions and even non-governmental organisations. Hardly 2 % talked about the possibility of being contacted or already been contacted by the Government for regularizing their stay. They have heard of the foreign labour unions and the support one can derive from them. But none of them have approached them ever.

Table 107

Migrants and Trade Union and NGOs

Have you received any support From trade union and NGOs ?	Nos and % in parenthesis
Yes	
No	30 (100)

Table 108
**Has there been any offer from the
 host Government to regularize
 your stay through say amnesty etc ?**

Yes	No
2 (6.67)	28 (93.3)

viii) Security of Irregular Migrants

Unlike many migrants from other countries who become victims of crime syndicates involved in human trafficking, only 13 % percent of the surveyed migrants mentioned that they sometimes feel physically insecure. These respondents had the experience of money extortion by what they call “Pakistani gangs”. The migrant from Narayanghat who is doing business in second-hand cars mentioned that he received threat from *Yakuja* (the Mafias) and had to pay NRs 3.5 lakh (US\$ 5000) once. They state that they cannot report this to the police because of the fear that they will be exposed and identified. On the other hand, the respondents maintain that most of these gangs are actually from within the migrant communities. Some of them have long vanished. They also hasten to add that since they do not belong to the category of ‘trafficked people’, they remain far away from the glare of crime syndicates.

Table 109

Did you feel physically Insecure anytime ?	Nos and % in parenthesis
Yes	4 (13.3)
No	26 (86.7)
Total Migrants	30 (100)

Despite the widespread fear that the governmental agencies were conducting raids places after places against the *fuho imin* (illegal immigrants), over 93 % of the surveyed migrants mentioned that the places where they were staying were safe and they had never experienced police raids in their dwellings. Every respondent categorically mentioned that they had never

been asked for bribes including by the policemen. No respondent had been ever arrested or physically abused or protected by the policemen. Interestingly, one of them whose building was raided 8 times mentioned that “fortunately 5 times I was not there and 3 times they did not come to my dwelling”. One of them mentioned during the last raiding in his dwelling though he was not there the police specifically asked the neighbours whether any “Muslims” were living in the dwelling.

Only 10 % of the migrants stated that they did experience police check at roads, shopping centers or other public places? One of them stated that when he was questioned by the police he had with him an alien card where nothing about visa is mentioned. In an exceptional case, the migrant from Narayanghat had to face police four times, 3 times in cases of problems of car sales and once in the case of a Nepali involved in drug peddling.

Not a single migrant surveyed was searched by the police for any unlawful activity. When we asked them about the government stand that the crimes are mostly committed by these “illegal immigrants”, these surveyed migrants were annoyed saying that the illegal immigrants are here mainly to earn money and go back. “We ourselves are in fact under constant threats of police that we may be detected. So we detest even the word crime, the question of committing a crime does not arise. We just donot do anything that attracts police” remarked a young irregular migrant.

The surveyed migrants in fact stated that “since we realize that the host country would not like us to do certain things which may threaten its security; we become actors in sensitizing our own group about such restrictive activities. This is the surest way to ensure that security measures are not violated by the migrants. This means we are in fact a source of security”. This arguments and counter-arguments do show that the security perception of the host country is at much variance with that of the migrants.

The migrants have their own terms to describe the *keisatsu* (police). The Nepalese migrants call them *mama* (literally meaning uncle) or even *dhere* (ugly looking man). The Indian migrants call them “chacha” (uncle) and “Hafta” (bribe taker on a weekly basis)

Table 110
Facing the Law enforcing Agencies

Incident	Yes	No
Have you experienced police raids in your dwelling?	2 (6.7)	28 (93.3)
Have you ever been arrested by police?		30 (100)
Have you experience physical abuse in the hand of police?		30 (100)
Have you ever bribed police?		30 (100)
Have you experienced police check at road, shopping centers or other public places?	3 (10)	27 (90)
Have you received any protection from police		30 (100)
Total Migrants	30 (100)	30 (100)

Table 111
Were you aware of the consequences of irregular migration, if apprehended?

Yes	No
28 (93.3)	2 (6.6)

Over 93 % of the respondents very clearly mentioned that they were fully aware of risks and dangers of migrating to Japan under such conditions. They had very interesting remarks to make when we ask them about their reactions in case if they are caught by the policemen or other law enforcing agencies. “*Afno matribhumi farkane ho*” i.e. “I shall go back to my motherland”; “try to convince them that I have not done anything wrong and in fact I am helping your factory to run”; “*chuchap sangha kumlo katero kashne ho*” i.e quietly pack up and leave”; “I shall go by law”; “I will request to allow me to stay further” and “It is not easy to send us back as there are thousands others living under similar conditions”. One of them mentioned that “I donot want to be treated like a criminal as I have not a speck of such inclination”. No one however, mentioned

that they will resort to some illegal means like bribes.

This is very unlike irregular migrants from other countries who resort to legal actions as soon as they are detected and determined. “Today more than a half of overstayers remain in Japan for more than two years. When they are indicted, a higher percentage of them demand hearing and filing of objections after immigration examination according to the Act. This is because more overstayers are marrying Japanese nationals. As a result, the Minister of Justice now issues more and more special permissions for residence.”⁶⁰

Most of the irregular migrants were staying in places where the Japanese natives also regularly and normally stay. They use the same transport systems, departmental stores including the ones owned by the legal migrants belonging to their own country/region themselves, *pachinkos* (gambling place) or other centers of entertainments. In some places, they share the same front lawns and same buildings. The Japanese natives are just next door neighbours, none of them mentioned that they have any interactions with the neighbours. Over 50 % of the respondents said that the common people attitude towards them were either negative or hostile. Expectedly over 73 % of the respondents felt that the government was also negative and hostile to their presence. No one mentioned that their employers were hostile and negative to them.

Many of the respondents did mention that one of the potent sources of information for the police about their presence in the locality is their Japanese neighbours. “Though these neighbours generally donot bother about our presence, the moment they feel disturbed because of some acts of ours they tend to complain to the police. There is very limited scope for us to disturb them. Yet one or two instances are enough to stretch their patience. For instance, we have this very bad habit of making noise when flushing our mouth in the morning when our Japanese neighbours are either preparing to leave for office or eating their breakfast. They naturally don’t like this dirty noise. By the time we come back from our duties and eat and watch television its always midnight when we go to our bed. Then naturally we use toilets and its flushes at mid-night when our neighbours are fast asleep. They donot like this also.”

⁶⁰ Ministry of Justice, Immigration Control Bureau (1998a), *Immigration Control 1998*, Tokyo, as mentioned in Iguchi, Yasushi, OECD, Paris, 2000, pp 160-165

Table 112
**What do you think is the attitude of the
following about irregular migrants ?**

Attitude of various groups and assessment	Nos and % in parenthesis
Government	
Supportive	4 (13.3)
Positive	
Indifferent	4 (13.3)
Negative	6 (20)
Hostile	16 (53.3)
Common People	
Supportive	
Positive	7 (23.3)
Indifferent	8 (26.7)
Negative	13 (43.3)
Hostile	2 (6.6)
Other Migrants	
Supportive	
Positive	22 (73.3)
Indifferent	8 (26.7)
Negative	
Hostile	
Employers	
Supportive	7 (23.3)
Positive	20 (66.7)
Indifferent	3 (10)
Negative	
Hostile	

“ Another issue is that of clearing *Gomi* (kitchen garbage). Some of us who donot at all have the habits of properly disposing garbage, are suddenly asked to dispose a particular type of garbage that too on a particular day of the week i.e. say plastics on Monday, papers on Thursday, bottles and cans on Saturday etc. This means we have to have seven different baskets for varieties of garbage. That also means that for plastics if we miss this one Monday then it can

be disposed off only next Monday when the collecting vehicle comes again. For us it is difficult to give so much of thought, time and respect to this mere garbage. And in the process we throw the same quietly yet haphazardly in the nearby collection place. This act of ours is disliked by the Japanese neighbours because they are too disciplined. When the collecting vehicle comes they question about such openly thrown garbage to our Japanese neighbours instead of us because of language problem. This naturally irks our otherwise quiet Japanese neighbours and they then complain to the police. Therefore, we have to be more disciplined than the Japanese themselves if we want less hassles.”

PART III

7 *Securitisation Practices*

There are increasing signs of securitization practices against the migrants. Borjas mentions about how the mass migration from Third World countries could be an economic threat which are not healthy for capitalist democracies.⁶¹ Brimelow expands his thesis of cultural threat emanating from influx of non-white immigrants into Western societies which could lead to political destabilization.⁶² In the same vein, Weiner while advocating migration as a threat to international stability and security draws the specific examples of nation states like the Balkans, Transcaucasia, the Middle East or the great lakes region of Africa which are most fragile. He even attributes the rise in xenophobic and nationalist politics in Western Europe to risk of being politically destabilized by a ‘massive’ influx of unwanted immigrants.⁶³

The securitization has been more particularly targeted at the irregular ones which can be seen in many countries including in Japan. This is clearly shown in this case study. The securitization

⁶¹ Borjas, George, *Friends or Strangers: The Impact of Immigrants on the US Economy*, Basic Books, New York, 1990.

⁶² Brimelow, Peter, *Alien Nation : Common Sense about America's Immigrations Disaster*, Random House, New York, 1995

⁶³ Weiner, Myron, *The Global Migration Crisis : Challenge to States and to Human Rights*, HarperCollins, New York, 1995; Myron Weiner, (ed) *International Migration and Security*, Westview, Boulder, 1993

tendency has been both at the societal and the State levels. The securitization agencies mostly belong to various organs of the state. These are manifested in various ways.

Japanese immigration laws very emphatically highlights as how serious is the security threat from the illegal migrants. It states that “over recent years, foreign nationals' crimes in Japan have become more serious. Brutal crimes including break-in robberies have increased and some foreign nationals have collaborated with crime syndicates in committing crimes. It has been pointed out that the presence of illegal foreign residents has become a hotbed for crimes committed by foreign nationals. In order to address such a situation, the Ministerial Meeting against Crimes formulated an ‘Action Plan for the Realization of a Society Resistant to Crime’ in December 2003. According to this action plan, the government will aim at reducing the number of illegal foreign residents by half in the next five years to ensure public security. It also indicates that it is necessary to eliminate unreasonable suspicion toward the many foreign nationals who are staying in Japan peacefully and legally.”⁶⁴

i) The host countries do thrive on cultivated insecurity triggered by the irregular migrants. This primarily happens in two ways. Firstly, the migrants are kept incessantly insecure. And secondly, an impression is created that migrants are the sources of crimes and hence societal insecurity. These crimes and criminal activities related images of the migrants are something which has evolved from other equally damaging traditional perceptions like migrants infiltration into the established social order and dissolution of traditional culture by them. This ‘latent prejudice’⁶⁵ is also manifested when the official agency resorts to deliberate exaggeration of such crimes. Okamoto quoted a misleading report in *Asahi Shimbun* that mentioned, “last year foreigners who had come to Japan were arrested by police for more than 34,000 instances of crimes such as murder, robbery, thief, and sales of stimulants. This was a historical high.” Contrary to this report which was based on *White Paper on Police* released by the National Police Agency (NPA), the original figure of 34,398 crimes included 7,057 violations of the Immigration Control Act, and 331 violations of the Alien Registration Law – both laws that apply only to

⁶⁴ *Basic Plan for Immigration Control (3rd Edition) provisional translation II_Salient Points Concerning Foreign Nationals' Entry and Stay*, <http://www.moj.go.jp/ENGLISH/information/bpic3rd-02.html> as visited on 25/6/2006

⁶⁵ IOM and UN, *International Migration Policies and Programmes*, Geneva, 1999, p 38

foreigners. By contrast, there were only 267 counts of “heinous crimes” by foreigners. A similar type of exaggerated portion of the report mentioning the crimes by foreigners in Japan” and by “illegal foreign residents” by again the NPA had to be deleted it was found questionable by the National Diet in the spring of 1998.⁶⁶ In fact, other case studies done in Latin American countries also show that these threats to public security are highly exaggerated as type of misdemeanors (drunkenness, disorderly conduct, or theft) committed by migrants are relatively less serious and heinous than the locals carry out including fraud and murders.⁶⁷

It is interesting to note that the crimes are mostly attributed to “rainichi gaikokujin” meaning “people who have come to stay in Japan temporarily.” It is a special category of foreign migrants that find specific mention in the *White Paper on Police* of NPA. It excludes permanent residents and U.S. military personnel and families, and lumps together spouses of Japanese and other long-term residents, college students, pre-college students, trainees, all of whom have residence status, as well as “short-term visitors” with visas of less than 90 days, and “illegal stayers” who are in violation of the Immigration Control Act⁶⁸. “The intent of this is to blame crime on the weakest group in Japan, who cannot raise any objections.”⁶⁹ This practice of “inflammatory discourse” seen in other such situations like in post Apartheid South Africa.⁷⁰

This inculcates a feeling of anti-migrant attitudes among the general public. These securitizations are many times misplaced yet deliberate. The threats emanating by an act of migration is most of the time perceived rather than real. There are ample examples of generalization of a small and scattered act of crime committed by an irregular migrant. It’s a proliferating regime of “we” and “they” with distinct negative slants to migrants for various

⁶⁶ Masataka Okamoto, “Linking Media & Migration : A Case Study of Japan” in “Linking Media and Migration – 2004”, a seven country (India, Thailand, Japan, Korea, China, Philippines and Malaysia) study done by Mahendra P Lama, Prasopsee Sookmark, Masataka Okamoto, Ryu Jeong Soon, Huang Ping, David Celdran and Ann Lee, under the auspices of Asia Leadership Fellow Programme organised by International House of Japan and Japan Foundation, Tokyo, 2005.

⁶⁷ Marmora, Lelio, *Migration and Development*, (Translation by International Organisation for Migration, Geneva, 1999, p 98

⁶⁸ This "Rainichigaikokuzin" category does not include "Teichaku-kyojuusha," people from former Japanese colonies and their descendants, "Permanent resident, Spouse or Child of Japanese National and U.S military personnel and families" and "people whose status of residence is not known" (nationality is not known but it is apparent that they are not Japanese.)

⁶⁹ Masataka Okamoto, n 22,

⁷⁰ Crush, Jonathan, “The Discourse and Dimensions of Irregularity in Post-Apartheid South Africa”, in *Migration and Development*, International Organisation for Migration, Geneva, 1999, pp 125-151

reasons.

This cuts both ways as it prevents any collective bargaining action from the migrants' side for any better provisions and also discourages the Government to make any generous migrants inclusive laws. In fact it inspires the State to close down the gates which it reluctantly kept open in the past. This will be clear when we discuss the measures adopted by the Japanese government to thwart any irregular migration.

On the other hand, the illegality makes the irregular migrants susceptible to discriminatory practices. They are docile and vulnerable. The employers take full advantage of this. "The threat of being caught weighing on the migrant is for the employer a source of protection against being penalized himself"⁷¹

This is also done to suppress the market wage rates that are generally paid to the irregular migrants. This helps the economic units and agencies that recruit them in saving a lot of labour costs while at the same time ensuring a consistent and dedicated supply of labour force. This also saves them from expending on health, housing, education and other fringe social benefits which the employers have to pay to the regular workers. In other words, the employing firms can not only evade their social security contributions but also constraints imposed by labour legislation. Two case studies above emphatically reveal that literally no employers pay anything other than wages to the irregular workers. This very much sustains the exploitative regime that irregular migrants are subjected to.

Thus keeping migrants insecure and undocumented does help in a situation where there is an effective demand in the labour market. This could also happen in a very specific situation where there may not be in general a supply gap in labour market yet an effective demand exists in a very particular variety of occupations.

At the same time, the very overlay of this undocumented migration could lead to security complications. This means if the migration is not allowed to be mediated by market forces or

⁷¹ Tapinos, n , p 24

any legal framework, this tends to essentially engender parallel circuits of housing, banking, educational system etc in the society. This invisible and complex network may be used by the inimical forces including by terrorists. This could generate a new security dynamics. This happens in situations where there are perverse responses to the practices of illegal migrants in the host country.

The securitization is in fact a one sided debate predominantly from the host country perspectives. The other equally crucial dimension of threat to various aspects of human security of the migrants are willfully ignored and suppressed. This is what comes out so clearly in the responses of the surveyed migrants both returnees and still live cases.

It is quite clear from the above two case studies that the irregular migrants live in persistent fear and constant isolation. The most dangerous thing for them is to see a police or to face a police. They avoid police and do not move in those areas where they may attract the attention of the police. Therefore they do not consciously do any thing that attract police. So the securitization of migrants particularly the irregular migrants; could be a myth widely publicized to discourage the irregular migrants and for that even the regular migrants.

ii) The other critical issue is that of discriminatory portrayals of migrants more so the irregular ones which are to a large extent deliberate. This is becoming rampant particularly in the aftermath of 9/11 incident. Here again securitization is a deliberate action. There are protests across the US and Europe on this. Interestingly these trends are fast catching up across Asian countries. Studies have shown that these popular impressions are consciously created and discriminatory portrayals are one of the instruments to do so.⁷² For instance, it is found that in the Philippines, the Chinese undocumented migrants are invariably related to drug trafficking & kidnapping, Indians as illegal money-lending activities and Muslims as terrorists.

In Thailand, Cambodian migrants are portrayed as beggars and kidnappers of children, Burmese

⁷² “Linking Media and Migration – 2004”, a seven country (India, Thailand, Japan, Korea, China, Philippines and Malaysia) study done by Mahendra P Lama, Prasopsee Sookmark, Masataka Okamoto, Ryu Jeong Soon, Huang Ping, David Celdran and Ann Lee, under the auspices of Asia Leadership Fellow Programme organised by International House of Japan and Japan Foundation, Tokyo.

as traffickers of women and children. In Malaysia, the Indonesians are portrayed as burglars and murderers and Chinese as sex workers. Bangladeshis are accused of marrying and carrying off Malaysian women.

In Japan, Chinese are projected as burglars. In the website of the Immigration Bureau of Ministry of Justice (Japan), over the map of the site, a four line paragraph introduces the presence of *konomashikunai gaikokojin* (undesirable foreigners] who disregard the rules, disturb the quiet life of Japanese nationals. The ascribed crimes are mostly attributed to non-white illegal migrants. There are deliberate attempts to identify the crimes with particular nationals. For instance, a noted daily mentioned that "*The Arrested Criminal is Chinese*".⁷³

Japanese government accuse the foreigners particularly irregular migrants not only for major organized crimes but also for illegal acquisition of Japanese nationality by pretending to be Japanese children left behind in China after WW II, violations of workers dispatching law and also camouflaged marriage plotted by snake head (Chinese mafia) and notary public.

The very awareness campaigns about the dangers of the presence of irregular migrants are strewn with derogatory images of the 'illegal migrants'. For instance, in the Police Guidebook of the Shizuoka Prefecture in Japan, the Brazilians are shown smashing car glasses, Chinese are depicted as stealing from automatic machines and Iranians assaulting *Pachinko* (gambling machines and dens). Similarly in case of Saitama prefecture it is shown as if all organized crimes and vicious crimes are directly related to illegal stay and illegal working. These picture based awareness through pamphlets in different prefectures have both racial and stereotyping overtones.

Okamoto⁷⁴ cites several examples of such discriminatory portrayals including the distribution of 700 leaflets by the Akabane police station and another police station in Tokyo in December, 2000. These pamphlets while addressing to crime prevention mentioned that, "*Call the police (Dialing 110) if you see Chinese-like persons,*" and "*If you see someone conversing in the*

⁷³ *Asahi Shimbun*, Tokyo, January 23, 1995

⁷⁴ Masataka Okamoto, "Linking Media & Migration : A Case Study of Japan", Ibid.

Chinese language inside a building, be sure to call the police". Such pamphlets were also distributed to 96 police stations within Tokyo in the same year.⁷⁵ The Kanagawa police station in Kanagawa Prefecture issued 6000 leaflets in December 2000 asking the residents to inform the police if they see any suspicious-looking foreigners loitering around their homes. This was announced in the local Police Box News, Special Edition entitled "Incidents of Tying-Up Victims in Larceny Cases by Foreigners on the Rise." Prefectural Police Departments like in Tottori also advise the public through their Web sites to call the police without hesitation whenever they see "*suspicious-looking foreigners, for example foreigners they have not seen in the local area; foreigners who ask for directions in halting, one-word Japanese; or foreigners who are inept at using the public transportation system.*"⁷⁶

When asked about this nationality specific crime attribution the newspaper publishing company, stated that "they are just what the police used in their reports to the press."

There are also several instances where Japanese criminals have committed the crimes in the garb of foreigners. Okamoto provides several instances. He mentions that "since the summer of 1999, robbery cases have occurred continuously in which suspects are reported to have used single, one-word Japanese expressions such as, 'Money! Money! Safe!' in Osaka and Hyogo. It has since become clear that these robberies were committed by Japanese criminals who intended to make witnesses believe that they were non-Japanese by speaking fractured Japanese with a pseudo-foreign accent."⁷⁷

In India there are increasing portrayals of Bangladeshis and Nepalese domestic workers as people involved in crimes. One can read headlines and news items asking people to be alert about these migrants.⁷⁸

⁷⁵ The Chinese Embassy protested to Ministry of Foreign Affairs of Japan against this incident which could lead to having all Chinese people viewed by the public as criminals. The Embassy also demanded prevention measures to deter recurrences of such incidents. As a result the local area guidance section withdrew and disposed of the leaflet, ["Call the Police (Dial 110) if You See Chinese-looking Persons" which were distributed by the Tokyo Metropolitan Police. [Asahi Shimbun December 26, 2000]

⁷⁶ Tottori Prefectural Police posted an appeal on their Web site (February 2001): "Please cooperate in the arrest of gangs who smuggle themselves into the country."

⁷⁷ Mainichi Newspaper Flash News, November 28, 1999 quoted by Masataka Okamoto, "Linking Media & Migration : A Case Study of Japan", Ibid.

At the same time putting all irregular migrants in the same basket and building and portraying a derogatory image of all the irregular migrants have done much harm to other wise a country that is respected for ensuring human rights and protecting human values. This simplification of a such intricate conditions under which migration takes place and complex issues that govern their stay in Japan could lead to a situation of constructing *kokumin shakai* (national society) that may advocate ‘national apartheid’ against migrants. This may also ultimately go against the conscious policy of attracting skilled – qualified migrants to cover the gaps led by aging phenomenon. In other words, Japan cannot afford to talk about *konomashi gaikokujin* (desirable foreigners) and adopt a policy of *sakoku* (seclusion from other countries)

8 *State Responses*

Japan has not adopted any amnesty policy so far for illegal foreign residents or extension of illegal residence; It has however, extended special permission to stay to illegal foreign residents who have close links with Japanese society or who, from a humanitarian standpoint, would suffer from deportation. However, state responses to irregular migrants in Japan in general are both harsh and discriminatory. The last entry in the index given in the website is *jouhouketsuke* [receiving information]. A section addressed to suspected irregular foreigners mentions that “ it is needless to say that most of the foreigners reside in our country respecting the rules but, on the other hand, sadly, in our country almost 250,000 estimated foreigners reside illegally and the Immigration Bureau is responding severely to illegal residents, moreover it thinks this is the appeal of the national society.”

Every year an anti-illegal worker campaign is organized and pamphlets are issued in different languages including Japanese, English, Korean and Portuguese to make people aware of the impending dangers generated by the presence of irregular migrants. At the same time, it is also a

⁷⁸ There are several news items that mention “Nepali criminals”, “Bangladeshi robbers” as the headlines of the story. For instance The Hindu, Delhi, dated 19 August 2005 published the title of the story as “Bangladeshis’ gang smashed : Several cases of robbery, burglary and a murder solved”

known feature that the Japanese government does such awareness and other civic campaigns in other areas also. For instance, Japanese Immigration authorities issue pamphlets regarding garbage disposal *Ruru wo mamotte kokusaika* [assimilating with the civic rules] to extend training to foreigners with a view to avoiding any problems caused to the daily life of Japanese nationals.

The Aichi prefecture issued the pamphlet which read as follows⁷⁹ :

“ it is estimated that the majority of illegal residents are individuals working illegally, part of them contributing to crime, thereby influencing public security. Against this back ground, there is the presence of brokers acting as intermediaries for illegal labour and employers who employ foreign illegal residents. This situation has spread from the city to the regions and Aichi prefecture is no exception. At the police we are reinforcing the control of such business. We ask for your cooperation in the detection of illegal residents and illegal workers”.

8.1 Immigration Laws⁸⁰

Initially the deterioration in the East Asian economies in the aftermath of currency crisis and its direct fall out on the illegal migration to Japan particularly since 1997 has been attributed as the main reason for making tighter immigration controls. This led to setting up of special task forces and Team for Special measures in the Immigration Bureau in major cities by the Ministry of Justice, hiring of special staff by the National Police Agency to intensively crackdown on illegally residing foreigners.

However, in the post 9/11 period, security threats are predominantly used to make the immigration regimes much more restrictive. The new law states that “strong measures to halve the number of illegal foreign residents will be promoted in reinforced cooperation with the police and other relevant agencies. Enhancement of measures to prevent terrorists from entering

⁷⁹ Translated into English by Erika Rossi in “ *Konomashikikunai gaikokujin/undesirable foreigner. [il]legal migrants, [il]legal foreign workers and foreign criminals in Japan : An Overview*”, MA level Term Paper under the course entitled *Migration/Regionalism/Globalization*, submitted at the Institute for the Study of Global Issues, Hitotsubashi University, Japan, February 2005.

⁸⁰ *Basic Plan for Immigration Control (3rd Edition) provisional translation II_ Salient Points Concerning Foreign Nationals' Entry and Stay*, <http://www.moj.go.jp/ENGLISH/information/bpic3rd-02.html> as visited on 25/6/2006

Japan has become a key challenge. Tougher border measures to forestall terrorist attacks will be promoted based on the “Action Plan for Prevention of Terrorism” as adopted at the Headquarters for Promotion of Measures Against Transnational Organized Crime and Other Relative Issues and International Terrorism in December 2004.”

Besides the more serious punitive actions there has been tough surveillance of Japanese coastlines, crackdown in most of the prefectures and open questioning of foreign looking persons in the towns and cities. The phenomena of ‘harassing even the legal Asian foreigners’ ‘closing down gates’, and ‘detention houses near the international airports’ are all widely practiced. At times these ‘reductionist temptations’ also take a racial and chauvinistic turns.

The laws are made tougher which categorically mentions that “border measures are needed to block the entry of terrorists and other foreign nationals planning to commit crimes in Japan, as well as those planning to illegally stay or work in Japan. The illegal stayers and terrorists are thus covered by the same law. There are a range of measures adopted and implemented in this regard. These include the following.

i) Stricter Examinations for Landing

In order to reduce the number of illegal foreign residents in Japan, it is necessary to prevent foreign nationals who wish to stay illegally from coming to and entering Japan. Regarding the status of residence of “Temporary Visitor” which accounts for 70% of the status illegal foreign residents have, as well as the “Entertainer,” “Pre-college Student,” “College Student” and “Trainee” statuses of residence which account for a large percentage of the status illegal foreign residents have, stricter examinations for landing will be implemented based on analysis of the accepting organizations and their home countries.

ii) Use of Biometrics

In order to detect and oust, at the border, terrorists or foreign nationals who have been deported from Japan or committed crimes, one effective method is to further enhance measures against forged and falsified documents and to utilize biometrics in immigration examinations. In order to take facial portraits and fingerprint data during landing

examinations of foreign nationals under the “Action Plan for Prevention of Terrorism” (as adopted at the Headquarters for Promotion of Measures Against Transnational Organized Crime and Other Relative Issues and International Terrorism on December 10, 2004), necessary preparations will be made by putting in order points for us to keep in mind, observing relevant measures taken by foreign countries and developing relevant law. The Ministry of Foreign Affairs is planning step-by-step to implement the fingerprinting of foreign nationals for their visa applications depending on the overall system and the installation of materials and equipment at diplomatic establishments.

iii) Advance Passenger Information System (APIS)

It was introduced in January 2005 for airlines to transmit information on crew members and passengers on flights bound for Japan before reaching Japan to allow automatic verification of the data against data maintained by immigration control, customs and police authorities. Strict landing examinations are being promoted by utilizing this system. Japanese experts are dispatched to verify forged or altered documents. The airlines are also required to verify the passports of foreign nationals boarding aircraft bound for Japan.

iv) Strict Status of Residence Examinations

Problems have been highlighted not only with illegal foreign residents but also with legal foreign residents who have valid statuses of residence while concealing their real purposes for entering and staying in Japan. Strict examination of statuses of residence will be conducted based on investigations. The status of residence revocation system will also be aggressively utilized.

v) Detection and Deportation

In order to halve the number of illegal foreign residents in Japan, it is necessary to efficiently deport foreign nationals who have illegally stayed in Japan. To this end, based on collection and close analysis of information on illegal foreign residents, detection will be reinforced in major entertainment centers and other districts that have concentrated numbers of illegal foreign residents. This is aimed at making the long stay of illegal foreign nationals difficult and to make

them realize that illegal stay in Japan has few benefits.

Detection of dishonest employers and brokers will be promoted aggressively by applying the regulations on the offenses of encouraging illegal employment. Detection will also be reinforced for brokers who, by mediating for employment and forging and selling fake passports and alien registration certificates, make it easy for illegal foreign residents to stay in Japan. The requests by employers to verify the identity of foreign nationals and their statuses of residence will be promoted in cooperation with relevant agencies. Institutionalizing such verification will also be considered when necessary.

The development of detention facilities will continue in order to increase the capacity of the detention facilities. In order to ensure prompt and secure deportation, the relevant countries will be firmly requested to facilitate and accelerate the issuance of passports and other documents for deportees' return to their home countries and requests to airlines will also be increased.

v) *Deportation Appeal Laws*

Illegal foreign residents who appear in order to continue their residence in Japan are required under the present law to undergo three procedural stages - examination by an immigration inspector, a hearing by a special inquiry officer and the decision of the Minister of Justice - after investigation of the violation by an immigration control officer, despite the fact that violations are not disputed in most cases. This imposes a great burden on both the administrative sector and the illegal foreign residents who have appeared voluntarily. Therefore, simplified procedures which do not go into the illegality will be considered for cases where illegal foreign residents have appeared voluntarily and who seek special permission to stay.

Applications for renewal of the period of stay in Japan from foreign nationals who have caused no problems during their stay but who have inadvertently become illegal residents by forgetting the renewal deadline are presently not accepted. The only option is to order deportation procedures for them and give them special permission to stay in order to turn them back into legal residents. For foreign nationals who have had short periods of illegal stay and there have

been no problems with their residence, some relief measures along with a review of the three-stage system will be considered.

All these lead to fewer allocations of resources for humanitarian actions and social security for migrants. This means their responsibilities are only cut down. They could also be very selective in migrants' management. This is a very typical feature that is found in the developed countries and their actions against the migrants including both forced and voluntary and legal and irregular. This could also lead to more allocations to security and defense budgets. However, such restrictive regime makes the cost of migration inevitably higher and beneficial for the agencies involved in such operations. It is amply substantiated by the statements made by the irregular migrants both from Punjab and those who are presently working in Japan.

At the same time, such tighter controls have forced the illegal migrants to revert “to more sophisticated methods, advanced technology and complicated maneuverings. It often involves traffickers and organized crime groups, among which the Snake Heads of China are the most notorious. But other organized crime groups come from Hong Kong and China while several Japanese groups are also active.”⁸¹

Japanese immigration laws are essentially and predominantly focused on prevention of illegal immigrants. Local immigration offices have been given wide power in order to deal with them. The campaigns against the irregular migrants are mostly on the basis of crimes committed by the illegal migrants. The deportation has been quite massive as indicated in the following table 113. Among the repatriated migrants the Chinese and the Koreans constitute nearly 50 percent of the total deported migrants. (Table 114) Most of the deported migrants were detected at their work places and deported for violating Article 24 of the Act. And over 50 percent of the deported migrants are women.

⁸¹ Iguchi, Yasushi, *ibid.*, p 159

The repatriation from Tokyo district has been the highest as the “variety of activities is higher, but it is also true the control might have been tighter, especially due to the xenophobic policy of Tokyo governor”.⁸² (Table 115)

Table 113
**Number of Deported Illegal Migrants
from Japan**

Years	Numbers	% of Women
1998	40535	61.2
1999	46258	57.1
2000	44190	54.2
2001	33508	57.6
2002	32364	57.5

Table 114
Repatriation based on Nationality (%)*

Nationality	1998	2002
Koreas	24.65	24.30
China	19.39	24.25
Philippines	13.17	9.96
Thailand	7.89	6.94
Malaysia	3.02	3.98
Indonesia	2.74	3.82
Iran	4.74	3.11
Peru	4.22	2.62
Bangladesh	2.47	2.49
Sri Lanka	1.76	2.19
Others	15.92	16.32
Total (nos)	45864	34455

* Includes persons other than illegal migrants

Table 115
Repatriation based on Territorial Distribution (%)

⁸² Rossi, Erika, “*Konomashikikunai gaikokujin/undesirable foreigner. [il]legal migrants, [il]legal foreign workers and foreign criminals in Japan : An Overview*”, MA level Term Paper under the course entitled “Migration/Regionalism/Globalization”, submitted at the Institute for the Study of Global Issues, Hitotsubashi University, Japan, February 2005

Area	1998	2002
Tokyo	32.40	33.88
Saitama	10.54	8.64
Chiba	8.12	8.29
Kanagawa	8.90	8.0
Aichi	5.02	6.69
Osaka	7.37	5.94
Ibaraki	5.91	5.88
Gunma	3.27	3.85
Nagano	2.15	2.64
Total	40535	32364

* Includes persons other than illegal migrants

However, despite so many recorded deportations the number of estimated irregular migrants has shown no significant reduction. This shows that there is somewhat a disconnect between management of entries and chasing away of immigrants. This also indicates that there is somewhat a direct correlation between control measures adopted by the destination countries and irregular migration.

8.2 *Alternative Arrangements*

As alternative to illegal working, Japan has mainly resorted to encouraging the companies to hire *nikkeijin* (foreigners of Japanese decent) including Japanese-Brazilians or Japanese-Peruvians and also through Technical Intern Traineeship programme started in 1993.⁸³ The former is primarily regulated by the Immigration Control and Refugees Recognition Act 1989 under which the PES conducts various networking particularly in Peru and Brazil. Under the later, “trainees” are given designated activities when they pass official skill test.

8.3 *Gaps in Legislation and Implementation*

Indian nationals travelling abroad require a valid Indian passport and travel authority for the destination country. The travel authority is normally in the form of Visa, which is obtained prior

⁸³ Ministry of Justice, *Controlling Immigration : Response to the Administration of Immigration in the New Era 2003*, Japan. For more details on the presence and their activities of *Nikkeijin* in Japan, please see, Takamichi Kajita, “The Challenge of Incorporating Foreigners in Japan : ‘Ethnic Japanese’ and ‘Sociological Japanese’”, in *Temporary Workers or Future Citizens*, pp 121-147

to the journey, except in case of countries where "Visa on Arrival" is available. There are some loophole in the policy. Before providing “visa on Arrivals” the authority should understand the intention of the traveler with consultation of the other officials and departments. Even for re-entry into the country, an Indian national is required to be in possession of a valid Indian passport or travel document issued by Govt. of India.

Immigration check is conducted for all passengers, Indians or foreigners, both at the time of arrival and departure. The passports are duly stamped at arrival as well as departure. Passengers should be careful to see that their passports are duly stamped before leaving the immigration counter. All passengers, Foreigners as well as Indians, coming to India or departing from India are required to fill-up **D** (Disembarkation) Card and **E** (Embarkation) Cards at arrival and departure respectively.

How the migrants from Punjab who were interviewed by us left the country without visa ?

Many of them on whose passports the ECR were clearly stamped could also leave the country without any detection. How was is possible ?

How these migrants could leave country without a proper visa to their destinations ?

How were the allowed to return to the country without any proper documents ?

It has been observed during the course of discussion with the respondent that in Punjab, all the registered recruiting agency whose registration has either been cancelled or couldn't renewed are now engaged in sending people illegally to destination countries. It is found that many of them still have good connections both with the governmental institutions in India and other such recruiting organizations and employers and agents abroad. The list of recruiting agents is attached. **(Appendix 2)**

9 *International Cooperation*

Most of the labour sending countries are facing the problems more or less similar in nature. But, there has not emerged any meaningful dialogue and effective international cooperation among these countries to highlight these issues related to irregular migrants. To a certain extent this move has been so far thwarted by the competitive nature of labour migration. However, such

frequent consultation may help in ultimately generating a conscious check on irregular migrants and also creating a consortium of migrants based on an analysis of skills and supply capabilities. For example, this is required on grounds that Indian migrants move through illegal channels sometimes as the Bangladeshi or the Sri Lankan workers. There could be international network running across the region. So exchange of data among ourselves are very important. This requires the harmonization of policies at the regional level.

10 Public information campaign

Information plays a crucial role in the decision of an individual to migrate. Many of the prospective migrants and their families have only very sketchy, if any, knowledge of the actual situation they will be facing abroad. Their knowledge of employment procedures, employees' rights and immigration regulations and procedures is even less precise. As a result, they are easy prey to a growing number of well organized and integrated smuggling networks that exploit their ignorance to gain huge profit and sometimes at the cost of human suffering for the migrant.

Information campaigns advise potential migrants of their legal options and of the risks connected to irregular ones. They are effective ways of reducing uninformed decisions that could result in irregular migration. Such campaigns are implemented with the goal of disseminating actual information about the realities of irregular migration in general and the risks for migrants such as the exploitation and abuse irregulars may be subject to in their intended countries of destination. They can also serve as a warning to agencies aiding and abetting the smuggling and trafficking of persons.

The authorities, media and NGOs are a secondary but no less important target group for sensitization and awareness raising on the concepts, problems and different dimensions of irregular migration and what role they should play in its prevention and control.

Government officials, particularly those working with passports, birth certificates, border control, policing and embassies abroad, as well as legislators, the media and NGOs, should be sensitized through seminars and work-shops on the definition, nature and incidence of irregular migration. And the role they can play in its prevention and control. The relevant government

and concerned ministries should enforce the policy that trafficked persons should be treated as victims of human rights abuses and violations of national and international law, and not as criminals or irregular migrants.

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Appendix 1

Case Study 1

Name : Mr. Jarnail Singh
Village ; Gilzian
Distt : Hoshiarpur
Illegally Migrated to Italy in 1998 at the age of 26

The name of the person is Jarnail Singh and he belongs to village Gilzian Distt Hoshiarpur of Punjab. He immigrated to Italy in the year 1998 at the age of 26. The main reason to immigrate was unemployment. Another reason was that the person belonged to the area in which nearly half of the population immigrated to different countries and most of them illegally migrated. So, the agents who have success stories of illegally immigrations were readily available and easily approachable. The person was quite aware about the money, which he would earn but unaware about the hardships of life in a destination (foreign) country. In most of the cases people are not aware about the kind of the job, living conditions, insecurity in destination country because of illegal stay. They know only one thing and that is, they will be deported to their own country once police catches them. They do not give any importance to it and leave it to god to take care.

The person approached and contacted a local agent of his area. It has also come to notice during the investigation that these agents are those person who are deported from different countries or those who are having there blood relations in some foreign countries. These persons have no dearth of examples of irregular immigrants who are well settled. So these people are source of inspiration and they convince a person that he will be going to millionaire within few months if not in days. The agent demanded the amount of 3.5 Lakhs but after negotiations it was decided that the person would pay 2.5 Lakhs, half of money would be paid in advance and rest would be paid when the person reached at his destination.

It was also told that it was not an Indian who would receive the person at the airport but a local agent (foreign national) would receive the

person. The journey of the person along with two other Indians started from New Delhi and the first stoppage was Russia. The passports bear the visa of Russia. The person reached at Moscow airport where a local Russian picked him up. He took the person to a flat where 12 persons (illegally migrated) were already staying. They were from Pakistan, Indonesia and Thailand. All of them were illiterate and no body knows what was going to happen next. The agent, with a promise that he would get the visa for destination country from the Russian embassy, took the passports. The person stayed there for a week and after that one morning he along with other 12 persons were taken to airport and boarded in a small plane. The person was told on the way that he was having the visa of Greece and there he would be picked by a local agent who would take all of them to France the destination country. A local agent at the Greece airport picked us and took to a small flat. The agent told us that he would take all of us to Italy next morning. He further told us that we could stay at Italy or immigrate to France with the help of another agent. He further told us that from Greece onwards journey would be illegal so all of us would travel by road in small groups with different agents. So from Greece we were carried to Italy in a car. It was not a straight drive. At so many places we were told to walk through jungles (forest) along with a person and we again met our agent at different places after walking few kilometres. We were also travelled by ferry at some of the places. We were quite unaware about the place and peoples. We were told that we should walk without any stoppage and without any conversation. It was really a tough journey. After reaching Italy we were handed over to another agent who took us to France. The journey from Italy to France was quite smooth.

In France, the person contacted his friend who was from the same village. He took the person to a place where he was staying along with other 4 persons. It was a small room having a place for a bed only. There was a small kitchen on one side and a separate toilet. Place could accommodate maximum 2 persons but now it was a place for 5 persons to live. The rent of room was 100 Francs and it was shared by five persons. It was difficult for a single person to afford the place. The persons who were already staying there, engaged in a job of publicity. I was also accommodated in the same job. My job was to distribute the newspapers and I have started earning 40 francs a day. Since I was an irregular immigrant so I was getting around 20 francs less than the legal immigrants. The local persons were not doing the work of publicity. All most everybody who was engaged in the publicity work was from other (migrated) country.

There was not any harassment from the locals but the people from other countries harass a lot. Negroes were the main trouble-shooters. They normally snatched the money from irregular immigrants because they were aware that these people neither lodge a complaint or nor they can go to police. I was remained in this job for 2 years after that I started purchasing the goods from the super market and selling in a market near the Eiffel Tower. It was necessary to obtain a licence for such work. Since I could not obtain a licence so I started it without licence. In this work the threat of police was much as compare to early

work because they were checking the licences so whenever there was a raid I ran away from the scene. I was remained in this work for half a year. In the year 2000, I received news that Spain had opened the open immigration for all the irregular immigrants when I tried to cross to Spain I was caught by police. I applied for the refugee status but could not obtain or granted it and so deported to India.

Overall, it was not a good experience. If a person is irregular immigrant, he always earns less than the legal immigrants. The aspiration of getting rich within days was not possible. A person has to work hard and live in the conditions, which were not worth living to save some money to send home. There was always a threat of police so it was a kind of torture. Language was another problem. You could not work at better place like in stores till you were well versed in English or French. For an irregular illiterates immigrant it was not possible to learn it quickly. Red cross was the organization that helped immigrants. Some of the persons who did not have work obtain the cloths and food from the organization. It was my experience that the organization helped one of my friends who was irregular immigrant when he met with an accident. The organizations bear all the expenses.

Case Study 2

Name : Mr. Ranvir Singh

Village : Bhoolpur

Distt : Hoshiarpur

Illegally Migrated to Germany in 1992 at the age of 21

The name of the person is Ranvir singh and he belongs to village Bhoolpur, Distt Hoshiarpur of Punjab. He immigrated to Germany in the year 1992; at the age of 21. The main reason to immigrate was unemployment. Another reason was that the person belonged to the area in which nearly half of the population immigrated to different countries and most of them illegally. The agent demanded the amount of 1 .5 lacs but after negotiations it was decided that the person would pay 1.2 lacs, half of money would be paid in advance and rest would be paid when the person reached at his destination. It was also told that it was not an Indian who would receive the person at the airport but a local agent would receive the person.

The journey of the person started from New Delhi and the first stoppage was Russia. The passports bear the visa of Russia. The person reached at Moscow airport where a local Russian picked him up. The

person stayed there for a week and after that one morning he along with other 6 persons were taken to a place called Kiev in a taxi by road. From Kiev the person was taken to Poland by road.. There was no restriction on my movement in Poland.

My passport was handed over to me in Poland. In Poland, the stay was a kind of torture. the agent gave me food three times and that was all I got from him. He told me that stay in Poland could be longer so I must arrange some money. So I asked my parents to send me some money. After one month the agent stopped giving me food and asked me to do the job at a farmhouse till we crossed over to Germany. I worked at that farmhouse for 2 weeks. after that he took me to a place which was told to me that a border village and he told me that I must cross over by night to Germany. I was also given a dress, which matches to a dress of security guards. We started the journey on foot and crossed to Germany after a walk of 2 days. The agent stopped the travelling in daytime and kept me in hiding and started the journey at night. It was an awful experience there was always a danger that some security guard might shoot if he saw us. In Germany, I had a relative. The agent was kind enough so he called at my relatives and told them the place from where they could pick me up. My relatives had a small flat so I stayed with them for a week after that the arrangements were made of my staying with other Indians. They were living in a small room, which also had a small kitchen within room and a separate toilet. It took me a lot of time to get out of the horrible experience of entering Germany. But I could not complaint to anybody because I did not have any legal protection and the agent in India was saying that the ultimate promise of reaching Germany was fulfilled. In Germany, I was employed in hotel as a kitchen helper. The job was of 8 to 9 hours. I earned approximately 1500 DM per month. There was a great threat of police. There were frequent raids by police in the hotel.

I was paid less because of status of illegal immigrants. The owner of hotel did not harass but they did not provide any protection if there were raids by police. I normally worked quietly inside the hotel. I was not earning much so I learned to cook German dishes. The owner gave me more money whenever I was involved me in cooking. He also started sending me in the parties as a bar tenders and gave me more money. I learned the language also because it was difficult to work if you did not know language. Since the police raids were quite frequent so I shifted the job to place, which was away from city. I started the job of fruit picking. They gave me 2000 DM for fruit picking. I remained in this job for another year. I was picked up by police in a special campaign started by government to catch all the illegal immigrants. My employer handed me over to police so that he could save his skin. I was deported to India because I did not have enough documents to apply for asylum.

Although I have earned some money during my stay in Germany but stay was never comfortable. Less earnings, poor living conditions, indifferent attitude of government, hatred of local residents was the

problems I faced during my stay.

Appendix 2

LIST OF THE RECRUITING AGENTS

No.	Name of Firm and Official Address	Registration No.	Valid Upto (mm/dd/yyyy)	Issue Date (mm/dd/yyyy)	Remarks
1	M/S AERO ENTERPRISES 106, 6-FI, PRESTIGE CHAMBERS, G.T.ROAD, JALANDHAR CITY, PUNJAB.	2167/PUN/PER/100/3/3867/93	2/3/1997	2/4/1994	REN UPTO 3.2.97
2	M/S AERO TRAVELS DILSUSHA MARKET, JULLUNDER CITY	343/PUN/PER/100/3/190/84		6/2/1984	CANCELLED
3	M/S AJAY ENTERPRISES B-VI-509/3, GROUND FLOOR, CIRCULAR ROAD, MADHOPURI-7, LUDHIANA- 141.	2693/PUN/PER/100/3/4466/95	10/19/1998	10/20/1995	CANCELLED
4	M/S Ashoo Traders ADARSH MARKET, P.O. PARTAP NAGAR,NANGAL DAM, DISTT. ROPAR (PUNJAB)	265/PUN/PER/100/3/878/84		5/23/1984	CANCELLED
5	M/S AVTAR TRAVEL ES-504, MOHALLA ABADPURA, JULLUNDUR-3	386/PB/PER/100/3/1044/84		6/4/1984	CANCELLED
6	M/S AZAD ENTERPRISES 206/5, SHASTRI MARKET, FIRST FLOOR, NEAR VIJAY DHABA, JALANDHAR CITY 144001.	2557/PUN/PER/100/3/4312/95	3/17/1998	3/18/1995	REN PENDING
7	M/S B.B. TRAVELS 378/35, IIND FLOOR, GOIYANKA MKT, M.M.MALVIYA RD.,AMRITSAR-143001.	2750/PUN/PER/100/3/4469/95	1/11/1999	1/12/1996	REN UPTO 11.1.99
8	M/S BAWRA TRAVELS 264/1, ADARSH NAGAR MARKET, JULLUNDHUR 144 001	1027/PUN/PER/100/3/1925/85		10/16/1985	CANCELLED
9	M/S CAPITAL TRAVEL SERVICE NEAR ARYA SAMAJ MANDI NAKODAR DISTT., JULLUNDUR, PUNJAB	396/PB/PER/100/3/1021/84		6/4/1984	CANCELLED
10	M/S DADRHA TRAVELS (R.C.EXPIRED) 3E, DIL KHUSH MARKET, JALANDHAR CITY PUNJAB	1603/PUN/PER/100/3/2818/90	7/26/1997	8/2/1991	CANCELLED
11	M/S DUB TRAVEL SERVICES RAILWAY ROAD, NAKODAR - 10, DISTT. JALLANDHAR	709/PUN/PER/100/3/1023/84		7/31/1984	RE-REGISTRATION
12	M/S DUB TRAVELS SERVICE RAILWAY ROAD, NAKODAR, JALLANDHAR 141 310	1413/PUN/PER/100/3/2507/89	7/11/1998	7/12/1989	RE-REGISTRATION
13	M/S FLOWER TRAVELS 2365,KATRA BAGHOA,OPP BANK OF INDIA,AMRITSAR(PUNJAB).	1136/PUN/PER/100/3/2074/86		7/6/1987	APPL. FOR BG RELEASE

14	M/S GERMAN TRAVEL SERVICE CHOWK SAINIK REST HOUSE, KAPURTHALA PUNJAB 144 601	1325/PUN/PER/100/3/2409/88	3/14/1994	9/14/1988	R.C. CANCELLED, BGR
15	M/S GERMAN TRAVEL SERVICE (REGD) SAINIK REST HOUSE, CHOWK, KAPURTHALA	746/PUN/PART/100/3/839/84		8/18/1984	CANCELLED
16	M/S GILL INTERNATIONAL TRAVELS 175, JWALA NAGAR, MAISUDAM, JALANDHAR 144 008.	2393/PUN/PER/100/3/4133/94	9/1/1997	9/2/1994	EXPIRED
17	M/S GULSHAN & ASSOCIATES 38, GOPAL NAGAR, MAJITHA ROAD, AMRITSAR, PUNJAB	650/PUN/PER/100/3/1405/84		7/13/1984	CANCELLED
18	M/S HAP AGENCIES NEAR NEW COURT, CIVIL LINES, JULLUNDHUR CITY	802/PUN/PART/100/3/448/84		9/10/1984	NOT RENEWED
19	M/S Jay Kay Enterprises 17, SOUTH MODEL GRAM, LUDHIANA	231/LUD/PER/100/3/748/84		5/18/1984	CANCELLED
20	M/S JOGINDER SINGH DASHMESH H.B. BAZAR, CANTT. ROAD, FARIDKOT	1004/PUN/PER/100/3/1842/85		7/23/1985	CANCELLED
21	M/S KALKAR TRAVEL LINKS 17-B, DILKUSHA MARKET, JALANDHAR CITY, PUNJAB	1085/PUN/PER/100/3/2036/86		9/5/1986	CANCELLED
22	M/S KIM TRAVELS MAIN ROAD, SOMANA MANDI, DISTT PATIALA, PUNJAB	1121/PUN/PER/100/3/2141/87		3/26/1987	CANCELLED
23	M/S Kulbir Singh 778,NOKODAR RD, NEAR AMAR ICE FACTORY, JALANDHAR CITY	56/JAL/PER/100///3/766/84			CANCELLED
24	M/S LIBDA TRAVEL CORPORATION (REGD) MODEL TOWN ROAD, NEAR SKYLARK HOTEL, JULLUNDHUR CITY	868/PUN/PER/100/3/1464/84		12/3/1984	CANCELLED
25	M/S MANIK TRAVELS EXIDE HOUSE, 1ST FLOOR, G.T. ROAD, JULLUNDHUR	1071/PUN/PER/100/3/1801/85		4/7/1986	EXPIRED
26	M/S PANDIT ENTERPRISES 784, MOTA SINGH MARKET, JULLUNDUR CITY	552/PUN/PER/100/3/551/84		5/27/1984	CANCELLED
27	M/S PARAM LUBANAS (INDIA) (R.C. CANCELLED) 1130, URBAN ESTATE, PHASE I, JALANDHAR	1525/PUN/PER/100/3/2854/90	4/7/1997	4/4/1991	CANCELED B.G. RELEASED
28	M/S PAUL TRADERS (SINCE CANCELLED) 5578/3, SAUDAGAR BAZAR, AMBALA CANTT.	666/HAR/PART/100/3/915/84	7/16/1996	7/17/1984	REN UPTO 16/7/96
29	M/S PRIDE TRAVELS (R.C. EXPIRED) SHOP NO.31, SHAHEED BHAGAT SINGH MARKET, G.T. ROAD, MOGA, FARIDKOT, PUNJAB	1346/PUN/PER/100/3/2452/88	10/31/1997	12/31/1994	REN UPTO 31/10/97
30	M/S S.H.Nirmal Singh	244/LUD/PER/100/3/690/84		5/19/1984	CANCELLED

	PLOT NO.3723, MODEL TOWN ROAD, LUDHIANA				
31	M/S S.P. ENTERPRISES 920, G.T. ROAD, JALANDHAR, PUNJAB	898/PUN/PART/100/3/1723/84		12/21/1984	CANCELLED
32	M/S S.R. ENTERPRISES 601, PHASE-I, NEAR PUNJAB SCHOOL EDUCATION BOARD, MOHALLA DISTT., ROPAR, PUNJAB	2360/PUN/PER/100/3/4088/94	8/21/1997	8/22/1994	SUSPENDED
33	M/S SARBJIT TRAVELS 7, SASTRI MARKET, JALANDHUR (PUNJAB)	325/PUN/PER/100/3/1209/84		5/31/1984	R.C.CANCELED B.G.R.
34	M/S SATYAM AIR TRAVEL CHARSI GATE ,NAKODAR- 141310(PUNJAB)	2730/PUN/PART/100/3/4118/94	12/11/1998	12/12/1995	CANCELLED, B.G.RELEASED
35	M/S SAVRUPSON TRAVELS & EXPORTS PVT. LTD., G.T. ROAD, NEAR G.P.O., JALANDHAR 144 001	923/PB/COM/100/3/1771/84		2/1/1985	CANCELLED
36	M/S SEA ROCK AGENCIES 781, MOTA SINGH MARKET, NEAR SUTLEJ CINEMA, JALANDHAR CITY	1128/PUN/PER/100/3/2140/87		5/22/1987	CANCELLED
37	M/S SHARMA TRAVELS 916, G.T.ROAD, NEAR NARINDER CINEMA, JALANDHAR	2073/PUN/PER/100/3/3620/93		10/22/1993	CANCELLED
38	M/S SIMER TRAVELS PLOT NO.921, DHILLON BUILDING, G.T.ROAD, JALANDHAR CITY.	2373/PUN/100/3/4117/94	8/18/1997	8/19/1994	CANCELLED, B.G RELEASED
39	M/S SINGH ADVISERS NAKODAR ROAD, NEAR JYOTI CINEMA, JULLUNDHUR 1	611/PUN/PART/100/3/1208/84		7/5/1984	CANCELLED
40	M/S SUPER PAM INTERNATIONAL B-VIII/64, NAYA MOHALLA, LUDHIANA	322/LUD/PER/100/3/1204/84		5/31/1984	CANCELLED
41	M/S SURJIT SINGH & SONS B-1/713, CHANDIGARH ROAD, KHANNA, LUDHIANA PUNJAB	1629/PUN/PER/100/3/3063/91	9/9/1994	9/10/1991	B.G.RELEASED
42	M/S Surjit Singh & Sons B-1/713, KHANNA DISTT., LUDHIANA, PUNJAB	80/PUN/PER/100/3/335/84		4/26/1984	RE.REREGISTERED 1629
43	M/S SYNDICATE RECRUITING AGENCY P.S. JAIN COMPLEX, G.T. ROAD, JULLUNDHUR CITY	805/PUN/PER/100/3/51/84		9/13/1984	CANCELLED
44	M/S T.S.TRAVELS 916, G.T.ROAD, 1ST FLOOR, JALANDHAR CITY, PUNJAB 144 001.	2489/PUN/PER/100/3/4197/94	12/18/1997	12/19/1994	CANCELLED, B.G.RELEASED
45	M/S UPKAR INTERNATIONAL COURT ROAD, NEAR DISTRIT COURTS, HOSHIARPUR CITY PUNJAB	821/PUN/PER/100/3/1061/84	9/19/1993	10/5/1984	CANCELLED
46	M/S UP-LIFT TRAVELS 7-D, DILKUSHA MARKET, JALANDHAR	1099/PUN/PER/100/3/2085/86		9/14/1986	CANCELLED
47	M/S UPPAL TRAVELS	2666/PUN/COM/100/3/4402/95	8/28/1998	8/29/1995	EXPIRED

PVT.LTD.
 9/10, JAWAHAR NAGAR,
 MODEL TOWN ROAD,
 LUDHIANA 141002.
 M/S ZENITH MANAGEMENT
 CONSULTANTS
 48 73, KAKI PIND, HOSHIARPUR 603/PUN/PER/100/3/798/84 7/4/1984 CANCELLED
 ROAD, JALANDHAR
 Source : <http://labour.nic.in/emig/>

84 percent of the respondents stated that the job which they finally secured in the destination countries were the ones that were different from what they were promised and also what they were expecting. Invariably they mentioned that the jobs they were given were far inferior to what they had expected. Some of them even felt ‘deceived’. Most of them mentioned that they would have never done or they would have had second thoughts in doing such jobs back home in their place of origin. 48 percent were engaged in jobs related to construction, 16 % in sales and 10 % in factories.

Table 25
**What was the job that you had in
 mind / was promised when you
 went last time?**

Job that migrant got was as promised	Nos and % in parenthesis
Yes	8 (16%)
No	42 (84%)

Table 26
Job Description

Nature of Jobs	Nos and % in parenthesis
Professional, administrative, managerial	1 (2%)
Clerical	
Sales including own business	8 (16%)
Factory and production	5 (10%)
Plantation	4 (8%)
Construction	24 (48%)
Domestic workers and cleaner	6 (12%)
Unemployed	
Not applicable	2 (4%)
Others (camel care)	

This sectoral employment orientation of these irregular migrants also confirms the finding of the OECD. A six OECD country case studies to check the main sectors where most of the irregular migrants are employed found that agriculture, construction and civil engineering, small scale industry, tourism, hotels and catering, and services to households and business including computer services to be the key sectors of their absorption.⁸⁴

80 percent of the respondents stated that the jobs they were doing were regular. Most of the respondents did mention about the long and harrowing working hours. Similarly, 60 percent of these respondents worked all seven days a week as against those 40 percent who worked for six days a week. Many of the migrants who worked on a per hour basis in fact did enjoy this as they had incentive of extra income. However, many of them had fixed wages and were subjected to very heavy and tedious work schedules. 36 percent of them reported to have worked for 9-12 hours as against 30 percent who worked for 12-15 hours. 8 percent worked for more than 18 hours a day. 40 % of them had to travel for 3 hours (both ways) for reaching their job venues and 14 % had to commute for 5 hrs for the same.

Table 27

⁸⁴ OECD, *Combating the Illegal Employment of Foreign Workers*, Paris, 2000.

Working Days per week	Nos and % in parenthesis
< 3 days	
4 days	
5 days	
6 days	20 (40)
7 days	30 (60%)

Table 28

Job Condition	Nos and % in parenthesis
Very Regular	40 (80%)
Regular	10 (20%)
Irregular	
Very irregular	

Table 29

Job Hours	Nos and % in parenthesis
< 5 hrs	
5 - <8 hrs	5 (10%)
9-<12 hrs	18 (36%)
12-<15 hrs	15 (30%)
15-<18 hrs	5 (10%)
> 18 hrs	4 (8%)
Not defined	3 (6%)

Table 30

Commuting time from place of residence to place of work (one way)	Nos and % in parenthesis
< 30 minutes	4 (8%)
1 Hour	11 (22%)
1.5 Hours	20 (40%)
2 Hours	8 (16%)
2.5 Hours	7 (14%)

> 3 Hours

46 percent of the respondents reported the monthly salaries which fell in the range of US \$ 300-600 as against 28 percent that fell within the higher range of US \$ 600-900. 18 % of the respondents worked for monthly earnings that vary between US \$ 100-300 which is not an attractive proposition. The respondents did mention that the changing of jobs was difficult. Many of the respondents who came back within a couple of months belonged to this lowest earning bracket. 50 percent stated that the payment schedule was very regular as against 10 percent who it to be very irregular.

Table 31

Monthly wage in US \$	Nos and % in parenthesis
< 100	
100 - 300	9 (18%)
300 - 600	23 (46%)
600 - 900	14 (28%)
900 - 1200	4 (8%)
1200 - 1500	
1500 - 2000	
2000 - 2500	
2500 - 3000	
> 3000	

Table 32

Payment Schedules	Nos and % in parenthesis
I Very Regular	25 (50%)
Regular	20 (40%)
Irregular	5 (10%)
Very irregular	

All of the respondents mentioned that the local workers received much more than what these migrant workers were receiving. This shows a discriminatory wage pattern as found and raised in a number of studies conducted on both regular and irregular migrants. However, 80 percent of the respondents also stated that they were given the same wage as that received by the migrants from other countries.

vi) Other Working Conditions

Among these 50 respondents, 36 percent said that they received food as an additional benefit in their working place. Many of them also informed that employer deducted some amount of their wages every month for providing food and accommodation. In Middle East countries during the *Nawaj* (prayer) day they provided migrants with free food. Interestingly, 12 percent of the respondents remarked that they were paid bonus also by their employers

Table 33

Wage of local workers for same job	Nos and % in parenthesis
Same as received by the Indian migrant	
Higher than received by the Indian migrant Regular	50 (100%)
Lower than received by the Indian migrant	
Wage of other immigrants (**) for same job	Nos and % in parenthesis
Same as received by the Indian migrant	40 (80%)
Higher than received by the Indian migrant Regular	10 (20%)
Lower than received by the Indian migrant (**) migrants from other countries	

Table 34

Type	Nos and % in parenthesis
Accommodation	

Food	18 (36%)
Clothing	7 (14%)
Bonus	6 (12%)
Festival tips	
Weekly holiday	9 (18%)
Annual holiday	4 (8%)
Medical cost	10 (20%)
Bonus	
Lumpsum help on	
Puja, Eid, X Mas	
Others	

Table 35

Did your employer send you to others for work?

Did your employer send you to others for work?	Nos and % in parenthesis
Yes	
No	50 (100%)

Many of the respondents mentioned that their employers had two to three business or work places. Some of them reported that they were taken from one place to another for their daily duties. However all of them mentioned that were never asked to work outside the employer's work place. No respondent mentioned any restriction on their freedom of movements. Only 12 percent of the respondents felt that they were subjected to some kind physical harassment in the work place and outside.

Table 36

Was there restriction on your freedom of movement from the employer?

Restriction on your freedom of movement from the employer?	Nos and % in parenthesis
Yes	
No	50(100%

Table 37

Did you face any physical harassment from the employer ?

Did you face any physical harassment from the employer ?	Nos and % in parenthesis
Yes	6 (12 %)
No	44 (88 %)

30 percent of the respondents lived in 15 ft by 15 ft rooms and 4 percent lived in tents. Interestingly it was mentioned that 48 percent of the respondents lived in a group of 6 persons and only 8 percent in a group of 3 persons. No respondent lived alone or even in a group of two persons. Since the number of respondents living in big hall was only 30 percent it may be deducted that most of them lived in very cramped places.

Table 38

Nature of Dwelling	
Size of the Room	Nos and % in parenthesis
10 feet by 10 feet	10 (20%)
12 feet by 12 feet	8 (16%)
15 feet by 15 feet	7 (14%)
> 15 feet by 15 feet	15 (30%)
One Big Hall	15 (30%)
Tents	2 (4%)
Multistoried Building	3 (6%)

Table 39

Number of Co-dwellers in the House	Nos and % in parenthesis
One	
Two	
Three	4 (8%)
Four	5 (10%)
Five	7 (14%)
Six	10 (20%)

> Six 24 (48)

Table 40

Amenities in the Room	Nos and % in parenthesis
Running water	50 (100%)
Toilet shared	50 (100%)
Kitchen shared	50 (100%)

vii) Migrants Remittance

As expected 86 percent of the respondents sent home their earnings and 44 percent sent it to their spouses and 40 percent to their parents. 54 percent of them sent the money through Hundi and 14 percent through friends and relatives. Only 18 percent sent the same through proper banking channels. 34 percent of the respondents annually sent their earnings varying from US \$ 2000-3000 and 4 percent sent more than US \$ 5000

Table 41

Do you send money to Your Family ?

Did you send money to your family at home ?	Nos and % in parenthesis
Yes	43 (86 %)
No	7 (14 %)

Table 42

To whom did you send the money	Nos and % in parenthesis
Parents	20 (40%)
Spouse	22 (44%)
Brother/Sister	
In laws	
Children	
Others (never send)	7 (14%)

Table 43

Method of Sending Money	Nos and % in parenthesis
Money Order	
Bank Draft	9 (18%)
Self (when went home)	
Friends/relatives	7 (14%)
Dalal	
Hundi Operator	27 (54%)
Others	7 (14 %)

Table 44

Amount sent in US \$ (in one year)	Nos and % in parenthesis
<1000	
1000 - 2000	10 (20%)
2000 - 3000	17 (34%)
3000 - 4000	11 (22%)
4000 - 5000	10 (20%)
> 5000	2 (4%)

The NIRA about the Bangladeshi workers in Japan found that “savings averaged 33000 Taka per month (equivalent to \$ 943) in 1991, based on an average monthly income of Tk 45000 (\$1350) and monthly expenditures of Tk 13000 (\$ 390). At this rate of savings, a worker could accumulate, Tk 396000 per year (equivalent to \$ 11314). Moreover, the average cost of emigrating to Japan of Tk 78000 (\$2340) could be recouped in about 2.4 months. Bangladeshis working in Japan sent home an average Tk 553000 (equivalent to \$ 15800) during their stays in Japan”.⁸⁵

⁸⁵ NIRA, *A Survey : Experiences of Bangladeshi Workers in Japan*, National Institute for Research Advancement, NIRA Research Report no 930025, Tokyo, 1994 as quoted by Yasuo Kuwahara, “Japan’s Dilemma : Can International Migration be Controlled?”, in *Temporary Workers or Future Citizens* p 371

We asked them to recall as to where the remittances they had sent in a particular year were used by their families back at home. 24 percent mentioned that it was used for the repayment of loans and 22 percent said it was used for the maintenance of the family. 28 percent mentioned that their families used it for the purpose of buying land and constructing houses.

On the fulfillment of migration aspirations we posed several questions. However, we mention here only two aspects viz., ensure own sustenance and ensure own and children's sustenance. On both the aspects 44 and 56 percent mentioned that it was partially fulfilled.

Table 45
Use of Remittance (in last one year)

Reasons	Nos and % in parenthesis
Sustenance of own family (spouse and children)	11 (22%)
Sustenance of extended family	2 (4%)
Own child's education	
Education of other members of the family	
Medical cost of family members	
Loan repayment	12 (24%)
Land purchase	7 (14%)
Home construction	7 (14%)
Land mortgage in	2 (4%)
Release of mortgaged land	
Business investment	3 (6 %)
Savings	4 (8%)
Litigation	
Dowry	
Religious and social occasions (Puja, Eid, X Mas)	
Social ceremony such as weddings	2 (4%)
Community development activities	
Donation to relatives	
Financing migration of other family members	
Religious contribution (Temple, mosque, <i>sadqa</i>)	
Others	

All respondents said that during the initial period, Indian migrants (legal/illegal) helped them in finding a job and accommodation. 90 percent of these respondents took help of Trade Unions, NGOs or other organizations that work for the migrant population. Many of them mentioned that they had availed of free food and cloth facility by the Red Cross during initial days.

Table 46
Aspiration and Level of Fulfillment **Nos and % in parenthesis**

Ensure own sustenance	16 (32%)
Fulfilled	
Partially fulfilled	22 (44%)
Will be fulfilled	8 (16%)
Not never be fulfilled	4 (8%)
Ensure own and children's sustenance	10 (20%)
Fulfilled	
Partially fulfilled	28 (56%)
Will be fulfilled	5 (10%)
Not never be fulfilled	7 (14%)

Table 47
Affiliation with Trade Union and NGOs

Have you received any support from trade union, NGOs or members of your community in the country of migration?	Nos and % in parenthesis
Yes	45 (90%)
No	5 (10%)

viii) Security of Irregular Migrants

Besides the high cost of illegality, susceptibility to discriminatory practices and high penalty in the post-detection phase, the respondents narrated a number of incidents where they felt their security was threatened. 38 percent of the migrants were victims of extortions and 14 percent of them were physically harassed. These were mostly done by the hoodlums. They also mention that in the extortion some South Asians including Indians, Pakistanis and Bangladeshis were also involved. In USA, one of them was forced to engage in drug abuse. Religious threats were also a major problem in

destination countries. Almost all of them said, they were not protected against such threats and harassments and they mostly kept quiet about it.

Table 48

Physical	7 (14%)
Extortion of money	19 (38 %)
Harassment	12 (24%)
Being forced to render service (legal / illegal activities)	2 (4%)
None	10 (20%)

Table 49

Were you protected by any one from such harassment / threats etc	Nos and % in parenthesis
Yes	None
No	50 (100%)

58 percent of the respondents said that their dwellings were raided by police and 24 percent mentioned that they were checked by police while they were on the road or shopping complex. 4 percent even said that they were arrested. No one mentioned that they received any police protection.

Interestingly, 58 percent of them responded by saying that they did not know the consequence of going abroad in an irregular manner. Many of them did mention that they thought it was like India where no one really bothered about where others have come from.

Table 50

Law enforcing agencies

Incident	Nos and % in parenthesis
Have you experienced police raids in your dwelling?	29 (58%)
Have you ever been arrested by police?	2 (4%)
Have you experience physical abuse in the hand of police?	4 (8%)
Have you ever bribed police?	3 (6%)
Have you experienced police check at road, shopping centres or other public places?	12 (24%)
Have you received any protection from police	no

Table 51	
Were you aware of the consequences of irregular migration, if apprehended?	Nos and % in parenthesis
Yes	21 (42%)
No	29 (58%)

Unlike the popular belief, 50 percent of the respondents reported that the attitude of the government was positive and supportive. This is also contrary to their revelations that their dwellings were raided by police a number of times and some of them were even arrested. Many of them however, mentioned that they had nothing to do with the government and also did not know what the views of the government were on them. Only 6 percent of the respondents felt that the common people's attitude to them were negative.

Table 52	
Attitude of various groups and assessment	Nos and % in parenthesis
Government	
Positive and supportive	25 (50%)
Positive	12 (24%)

Indifferent	8 (16%)
Negative	5 (10%)
Hostile	
Common People	
Positive and supportive	20 (40%)
Positive	17 (34%)
	10 (20%)
Indifferent	6
Negative	3 (6%)
Hostile	

Section 2

6 *Serving Irregular Migrants in Japan*

Japan has been a major attraction for the migrants particularly since the boom period of 1980s. At the root of the problem, there is a structural change in Japanese society. This situation is largely the product of i) the expanded income gap between Japan and other Asian nations, ii) the aging of Japanese society, iii) the decreasing young population, and iv) changing views on "work" among the Japanese. For instance, the National Institute of Population and Social Security Research projected that Japan's population will peak at 127.74 million in 2006 before entering a long-term decline hitting some 100.6 million in 2050. The nation's productive population, which already peaked at 87.17 million in 1995 and turned down, is predicted to decline to 53.89 million in 2050. If Japan were to accept foreign nationals simply to make up for the decline and to maintain a productive population at that peak, the nation would have to accept some 650,000 foreign nationals annually. Japan's Immigration Policy clearly states that "time has also come for the immigration control administration to consider what the acceptance of foreign workers should be in a population-declining age. As the productive population decreases

substantially, it is important for Japan to further promote the acceptance of foreign workers in professional or technical fields.”⁸⁶

Yet, the Japanese government has not eased immigration policy except for what it calls “foreign workers who are highly valued in professional or technical fields”. This in turn has , creating a population of "unlawful foreign workers" and "foreign overstayers" because many migrant workers could not acquire proper work visas.⁸⁷ While putting Japan in the ‘tier 2’ category with respect to human trafficking, the US Department of State’s *Trafficking in Persons Report* considered Japan as a “country of destination for men, women, and children trafficked for sexual exploitation”⁸⁸

The total number of registered foreigners in Japan have increased from 0.817 million in 1988 (82 % Koreans and over 7 % Chinese) and to 1.512 million in 1998 (42 % Koreans, 18 % Chinese, 15 % Brazilians and 7 % Filipinos) and 1.851 million in 2002 (34 % Koreans, 23 % Chinese, 15 % Brazilians and 9 % Filipinos). At the end of 2003, the number of registered foreign nationals residing in Japan hit a record 1.92 million. Their share of Japan's total population also posted an all-time high of 1.5%. This trend is expected to continue with the number of foreign residents in Japan increasing.

The registered foreigners from South Asia are relatively very small in numbers. There are various estimates of irregular migrants in Japan. Out of the total estimated foreign workers (610000) in Japan in 1993 the illegal workers constituted almost 50 %. This was found to have reduced to 42 % in 1997 (total- 660000). Within this also the share of categories of workers who have overstayed is above 40 %. In 1998, the maximum number of nationalitywise overstayers was from Korea which constituted over 18 % of

⁸⁶ *Basic Plan for Immigration Control (3rd Edition) provisional translation II_ Salient Points Concerning Foreign Nationals' Entry and Stay*, <http://www.moj.go.jp/ENGLISH/information/bpic3rd-02.html> as visited on 25/6/2006

⁸⁷ Masataka Okamoto, “Linking Media & Migration : A Case Study of Japan” in “Linking Media and Migration – 2004”, a seven country (India, Thailand, Japan, Korea, China, Philippines and Malaysia) study done by Mahendra P Lama, Prasopsee Sookmark, Masataka Okamoto, Ryu Jeong Soon, Huang Ping, David Celdran and Ann Lee, under the auspices of Asia Leadership Fellow Programme organised by International House of Japan and Japan Foundation, Tokyo, 2005

⁸⁸ The US Department of State, “Trafficking in Persons Report”, June 2003.

the total overstayers of 276810. Filipinos followed with over 15 %, Thais and Chinese over 13 % and Peruvians with 4 %.⁸⁹

The trend in the irregular migrants movement (those who illegally stay in Japan beyond the permitted periods of stay without obtaining permission for extension or change of status of residence), to Japan showed a sharp increase in its numbers from 106497 in 1990 and peaked at 300000 in 1993. After 1994 however, there has been somewhat a steady decline in the estimated number of illegal immigrants mainly because of the strict implementation of immigration laws, intensified detection, prolonged economic slump and also relaxation on the strictness on issuing work visa. The security authorities have become more vicious after 9/11 (2001) incident. The number of overstayers as estimated through the computer statistics of computer statistics of the Immigration Control Bureau, the declined to around 210,000 as of January 1, 2005. In addition, an estimated 30,000 foreign nationals are considered to have illegally entered Japan, smuggled in on boats or other vessels, and to be lying low. The total number of illegal foreign residents is thus estimated at some 240,000.⁹⁰

There are categories of illegal entries also that varied from 5227 in 1993 to 7117 in 1997. In this category the Thais and Chinese led the numbers with almost 63 % in 1993 and 43 % in 1997 respectively. Others included Filipinos and Koreans. The number of illegal entries from Pakistan increased from 101 in 1993 to 321 in 1997.

Japanese overwhelmingly use the term ‘foreign workers’ instead of ‘migrants’.⁹¹ They seem to culturally and politically find difficult to reconcile with the presence of migrants and in a mode of denial call them ‘foreign workers’. Unlike the Indian irregular migrants,

⁸⁹ The main categories of foreign workers consist of qualified workers, workers of Technical Intern Traineeship Programme / working during holiday (TITP/WH), student workers, workers of Japanese decent (mainly second and third generation) and illegal workers. It does not include permanent residents. Iguchi, Yasushi, “Illegal Migration, Overstay and Illegal Working in Japan : Development of Policies and their Evaluation” in *Combatting the Illegal Employment of Foreign Workers*, OECD, Paris, 2000, pp 157-158.

⁹⁰ *Basic Plan for Immigration Control (3rd Edition) provisional translation II_ Salient Points Concerning Foreign Nationals' Entry and Stay*, <http://www.moj.go.jp/ENGLISH/information/bpic3rd-02.html> as visited on 25/6/2006

⁹¹ See Saskia Sassen, “Economic Internationalisation : The New Migration in Japan and the United States”, *Social Justice*, 21, 2, Summer, 1994, pp 62-81

we could lay our hands on some case studies including by Yorimitsu (1997) done on the irregular migrants in Japan.⁹²

6.1 Japan : Immigration Laws

In Japan, the Immigration Control and Refugees Recognition Act primarily covers the movement of immigrants both legal and illegal and the criteria and measures to deal with them. This Act is supplemented by Employment Counter Measures Plan (1996) which primarily enunciates Government's employment policies for accepting foreigners in various occupations.

6.2 Penalty Clauses⁹³

This law was amended in December 2004 which now imposes heavy fines of 300000 yen to 3 million yen (US\$ 3000 to 30000) for those who illegally enter into Japan. For those who encourage illegal employment the fine varies from 2 to 3 million yen and similarly those who resort to engagement in activities other than those authorized are subjected to fine of 200000 yen to 2 million yen. It was in 1989 that for the first time sanctions on employers (and intermediaries) were introduced.

Similarly aliens with deportation record can now enter into Japan only after 10 years gap and those illegal aliens who voluntarily left Japan would be allowed to reenter into the country after a gap of 5 years. This re-entry prohibition was just for one year before February 1999 when the Immigration Control and Nationality Act was amended to include a new criminal sanction against overstaying that also increased this to 5 years. This re-entry prohibition from 1 year before 1999 to 5 years from 1999 to 2004 and finally to 10 years after 2004 shows that the crack down have been increasingly harsh.

⁹² Yorimitsu, M, "Troubles of illegal workers and labour consultation", *Trouble of Foreign Workers and Problems*, Employment Promotion Centre, Tokyo, 1997.

⁹³ *Law for Partial Amendment of the Immigration Control and Refugee Recognition Act* (Law No_ 73 of June 2, 2004) Enacted at the 159th Diet Session
<http://www.moj.go.jp/ENGLISH/IB/ib-78.html> as visited on 18/2/2005

An alien who stays in Japan beyond the authorized period of stay may depart from Japan voluntarily if the alien satisfies all of the following requirements

- The alien has appeared at an immigration office voluntarily with the intention of departing from Japan immediately
- The alien does not come under any of the grounds for deportation other than overstaying
- The alien has not been sentenced to penal servitude or imprisonment on the charge of larceny or other prescribed crimes after entering Japan
- The alien has no past record of deportation, nor that of departure by the departure order
- The alien is expected with certainty to depart from Japan immediately (to satisfy this requirement, the alien must have a valid passport and sufficient travel funds for returning to home country)

Interestingly, hardly anything is found on aspects of human trafficking prevention. A large-scale human trafficking particularly women from Philippines, Thailand, Colombia and Russia take place in Japan. The ILO office in Japan in its document *Human Trafficking for Sexual Exploitation in Japan*, (Dec 2004) mentions that “on the one hand there is international accord that trafficked human beings should be treated as victims, should be sheltered and helped in recovering from the harm. In fact, the majority of the victims are arrested, kept in detention and forced back as illegal immigrants”

6.3 Findings of the Survey : Japan

Given the sensitivity of the issue and also considering the interest of the migrants concerned, the places where these irregular migrants are located in Japan are not disclosed here.

Among the 30 sample surveyed, 29 were Nepalese and 1 was an Indian citizen. Among the Nepali irregular migrants almost 42 percent were from Kathmandu, followed by 10 percent from Pokhara. The other migrants were from Rukum, Syangja, Biratnagar,

Bhairawa, Narayanghat and Bharatpur. Over 70 percent of the Nepali irregular migrants were Bahuns, Thakuris and Chettris. Indian migrant was from Delhi.

i) Socio-Demographic Profile of Irregular Migrants

40 % of the migrants belonged to the age group of 30-35 and 23 % of them were in the 25-30 age bracket. The very nature of the work the irregular migrants do or asked to do, show that the required age group should be of relatively younger.

There was not a single illiterate migrant. 60 % had either completed college or had some college education and over 23 percent had completed their high schools. Some of them who mentioned in the survey that they were college graduates, later confided about not going to college. They mentioned this because among the fellow irregular migrants also it was a question of social prestige to have a college degree. They were found to be rather well aware of the developments in the home country and also had a good awareness about their present surroundings.

Table 53

Age Group	Migrants (Nos and % in parenthesis)
< 20	
20-<25	2 (6.6)
25-<30	7 (23.3)
30-<35	12 (40)
35-<40	4 (13.3)
40-<45	3 (10)
>45	2 (6.6)
Total	30 (100)
Migrants	

Table 54

Education

Qualifications	Nos and % in
-----------------------	-------------------------

		parenthesis
Illiterate		
Elementary and Below		
Some High School	3	(10)
Completed High School	7	(23.3)
Some College	6	(20)
Completed College	12	(40)
Technical Vocational	2	(6.6)
Total Migrants	30	(100)

Over 73 % of the migrants were Hindus and rest was Buddhists. Over 80 percent of them were married and except three of them all had left their families behind. It is interesting to note that in two cases, their spouses had joined them much after they came to Japan. These spouses were also now leaving as irregular migrants. This in a way showed that the irregular migrants also have their own networking and ways to attract and bring more irregular migrants. This happened through the proper channel as all of them have entered into Japan by air and not through sea and land routes like in many European and American countries.

Table 55
Religious Distribution

Religion	Nos and % in parenthesis
Sikh	
Hindu	22 (73.3)
Christian	
Muslim	
Buddhist	8 (26.7)
Others	
Total	30 (100)
Migrants	

Table 56
Marital Status

Status	Nos and % in parenthesis
Single	5 (16.7)

Married	24 (80)
Divorced/Separated	1 (3.3)
Widowed	
Others	
Total Migrants	30 (100)

The family related economic burden is a key factor that has triggered such kind of migration. This is corroborated by the fact that most of the migrants did mention that urge to earn higher income (50 %) and better job opportunities (26 %) motivated them to migrate even if it is in an irregular manner. Over 36 % of the migrants had a family size of 4-6 persons and 30 % of them had 7-10 family members. Over 16 percent of the migrants even had more than 10 members in their family. In this type of bigger family size, the number of earning members plays a critical role. Over 43 % of the migrants had only one earning member and 30 % two earning members. The economic hardships created by the difference between the size of dependent members and the number of earning members do trigger strong motivation for migration as the opportunities within the country are limited. The fact that migrants were recorded from both cities like Kathmandu and from remote areas like Rukum indicates that this feature is geography neutral.

However, after they moved to the present location as irregular migrants, they emphatically state that it sharply improved their financial conditions. Over 66 % of them mentioned that their families now have annual earnings varying from NRs 2.5 lakh to 8 lakh. Over 16 percent reported that it now vary from NRs 9 to more than 12 lakh per annum. There was an exceptional case of a respondent who came as a tourist from Narayanghat and now does a business in second hand cars. He earned NRs 4.5 lakh per month and supported 10 members of the family. The question of cross checking did not arise, because he said this in front of four other fellow migrants.

Table 57

Primary reason for working abroad	
Reason **	Nos and % in Parenthesis

Structural

Landless due to bank erosion	
Famine like condition	
floods	
Others _____	
Economic	
To escape poverty	1 (3.3)
Death of earning member	
Lack of job	8 (26.7)
Low income (at home country)	15 (50)
Others _____	2 (6.6)
Social	
Escape family problem	1 (3.3)
Get away from drugs	
De-link with criminal network	
Others	
Political	
Political persecution	1 (3.3)
To escape further involvement with politics	
Others	
Catalytic	
Social network	1 (3.3)
Dalal	
See new world	1 (3.3)
Demonstration effect	
Total Migrants	30 (100)

However, no migrant was willing to disclose the actual pre-migration family earnings. Most of them parried the question by saying that it was quite low and very inadequate. We did accept this view as the general level of wages both in public and private sectors are relatively very low in Nepal. We did cross check by putting the same question of family size by asking them the number of members these migrants are now supporting from Japan. It more or less tallied. 43 % supported 3-6 persons and another 43 % supported more than 6 family members.

Table 58

Total Number of Earning Members	Earning Members	Nos and % in parenthesis
1		13 (43.3)
2		9 (30)
3		4 (13.3)

4	3 (10)
>4	1 (3.3)
Total Migrants	30 (100)

Before departing for Japan, 30 % of these migrants were reported to be working in the professional, administrative and managerial categories, 23 % in sales including own business and another 23 % as others including daily wagers. Only 10 percent reported that they were unemployed. Naturally for most of them the motivating factor for migration would have been to gain better status both in terms of earning a higher income and getting jobs with better profiles. When they reached Japan the first motivating factor was definitely fulfilled. But not the second one.

Table 59

Total Annual Earning of the Family	
Annual Earning (Nepali Rs)	Nos and % in parenthesis
50000 - 1 lakh	
1 - 1.49 lakh	
1.5 - 1.99 lakh	3 (10)
2 - 2.49 lakh	2 (6.6)
2.5 - 2.99 lakh	6 (20)
3 - 4 lakh	7 (23.3)
5 - 8 lakh	7 (23.3)
9 - 12 lakh	4 (13.3)
> 12 lakh	1 (3.3)
Total Migrants	30 (100)

Table 60

Number of Persons Supported by Migrant	
Person Supported	Nos and % in parenthesis
1-2	4 (13.3)
3-6	13 (43.3)
> 6	13 (43.3)
Total Migrants	30

Table 61

**Did you get the job you had in mind or
was promised when you actually
reached the destination country ?**

Job that migrant got was as promised	Nos and % in parenthesis
Yes	9 (30)
No	21 (70)

This is corroborated by the fact that 70 % of them responded by saying that the jobs that they were now doing were not the ones they expected to do or they were hoping to get. At least two of them said “chittai bujhdaina” i.e. I am not able to reconcile with what I am doing. This overwhelming dissatisfaction with the nature and profile of jobs are not generally expected from the irregular migrants who in normal circumstances could have been prepared for any kind of jobs. At the same time, there were respondents who said that we were in a situation of “je pae-pani garne” i.e. whatever is available we will take it up.

Table 62
Most recent Occupation prior to First Migration

Occupations	Nos and % in parenthesis
Professional, administrative, managerial	9 (30)
Clerical	1 (3.3)
Sales including own business	7 (23.3)
Factory and production	3 (10)
Unskilled	
Unemployed	3 (10)
Others**	7 (23.3)
Total Migrants	30 (100)

Note : ** including teaching, farmers and daily wagers

ii) History of Irregular Migrants

Though over 73 percent had migrated to a foreign land for the first time, there were 8 migrants who had migrated for the second time. Out of these 8 migrants who had mostly migrated during 1985-94 period, only one of them had migrated to Japan earlier and had

gone back. Rest of the seven had gone to Malaysia, Korea, Thailand and even the US. All of them remained in these countries of first migration as irregular migrants for a period varying from 3 months to over 4 years. Migrants who had gone to Malaysia were arrested and sent back as their fake visas were detected. Migrant to Korea used to check container goods loading.

Table 63
How Many Times Migrated ?

Number of times migrated	Nos and % in parenthesis
Once	22 (73.3)
Twice	8 (26.7)
Thrice	
> Thrice	
Total Migrants	30 (100)

Table 64

Name of Countries of Migration	Number of times migrated	Name of Countries
Once		Japan all 30 migrants
Twice (8 migrants)		Korea (1), Malaysia (2), Thailand (3), Japan (1) and Hawaii, USA (1)
Thrice		
> Thrice		
Total Migrants		

Table 65

Year of First Migration	Nos and % in parenthesis
First Migration Year	
Before 1970	
1970-74	
1975-79	
1980-84	
1985-89	3 (37.5)

1990-94	4 (50)
1995-2000	1 (12.5)
2001-2004	
Total Migrants	8

Over 63 % of the surveyed migrants had come to Japan in very recent years viz., 2001-2004. Over 23 % came during 1996-2000. As far as the length of stay of these irregular migrants is concerned 20 percent had so far spent over 7 years and roughly 60 % has already spent 3 to 6 years.

Table 66
Year of Last Migration

spent as migrant	Year of return	Nos and % in parenthesis	Table 67 Total number of years
	Years	Nos and % in parenthesis	
	Before 1970		
	1970-74		
	1975-79		
	1980-84		
	1985-89		
	1990-95	4 (13.3)	
	1996-2000	7 (23.3)	
	2001-2004	19 (63.3)	
	Total Migrants	30 (100)	
	<1		
	> 1 year	3 (10)	
	2	3 (10)	
	3	4 (13.3)	
	4	9 (30)	
	5	4 (13.3)	
	6	1 (3.3)	
	- >7	6 (20)	
	Total	30 (100)	
	Migrants		

Expectedly the migrants did reveal that they resorted to a number of irregular practices both in the process of reaching the destination and also in settling down after they reached the host country. However, unlike migrants from Philippines who enter mostly with *kougyou shikaku* ‘entertainment visa’ and for last few years now in ‘spouse visa’⁹⁴, over 66 percent of the respondents said that they used tourists visa, 13 percent used business visa and 7 percent used student visa to enter. Some of them had come to Japan purely for official work assigned to them by the government department they were attached to. At least two of them had come to participate in exhibitions, one for participating in a sport event and three of them to attend the workshops/conferences. One was garment designer and another came as a volunteer in an NGO. Yet another came with his father in his official work as a tourist and stayed back. One mentioned that he had come to do Nepalese handicrafts business in Osaka which failed very badly and he was forced to stay back to recover the losses. All of them overstayed thereby becoming irregular migrants. Interestingly, over 85 percent said that they were very clear in mind about their adopting the overstay mode of becoming irregular migrants. This implies that they had clear intention of becoming irregular migrants.

Table 68

Irregular Practice in Immigration	
Total Number of Irregular Practice	Nos and % in parenthesis
Changing of passport information	
Using non working visa (Tourist)	20 (66.7)
Using non working visa (Business)	4 (13.3)
Using non working visa (Student)	2 (6.7)
Overstaying	30 (100)
Deserted contracted job	

⁹⁴ Migrants get their visa as entertainer (singer, dancer etc) for a specific period of time. They are not allowed to do any other jobs (including like club hostesses). They have certificates for talents. For instance, this certification of talents is issued by the Technical and Skills Development Authority (TESDA) in Philippines. Gonzalo Campoamor II, “Filipino Irregular Immigrants in Japan”, MA level Term Paper under the course entitled *Migration/Regionalism/Globalization*, submitted at the Institute for the Study of Global Issues, Hitotsubashi University, Japan, February 2005. Also see, Sally Cameron and Edward Newman, *Trafficking of Filipino Women to Japan : Examining the Experiences and Perspectives of Victims and Government Experts*, United Nations University, Tokyo, 2000.

The number of foreign nationals newly entering Japan with the status of residence of “Entertainer” totaled 134,879 in 2004. In this the Philippines accounted for 82,741 or 61.3% of the total, followed by China, which was 8,277, and the United States, which was 6,074. *Basic Plan for Immigration Control (3rd Edition) provisional translation II_ Salient Points Concerning Foreign Nationals' Entry and Stay*, <http://www.moj.go.jp/ENGLISH/information/bpic3rd-02.html> as visited on 25/6/2006

Contract substitution by employer	
Irregular entry	
Others	6 (20)
Not applicable	

The respondents also seem to have both partially and profusely used a variety of services rendered by the brokers, fixers and other illegal agents. They continue to make use of their services even after a few years of being there in the migrated country. Over 56 % of the migrants mentioned that they used the services of brokers to leave the country irregularly. The *modus operandi* was very legal and regular (as no one seems to have used fake passport or a visa). However, the purpose for which the migrant was leaving the country was irregular. Similar percentage attributed their entry into the destination country to the brokers. 36 % used the services of a broker to secure a visa. All of them are still using the services of an illegal agent “hundi” to remit their earnings to their relatives in Nepal. Many of them found at least some jobs (among the multiple job hopping a migrant has been doing) through these fixers and brokers. However, 7 respondents stated that they never used the services of the brokers except for sending the money to their relatives.